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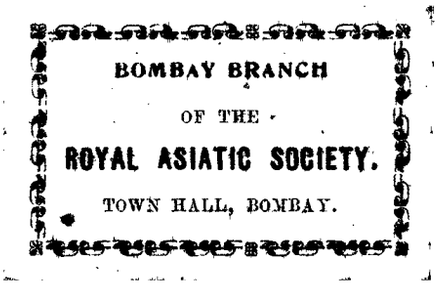

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BY Vertue of an Order of the House of Commons, I do appoint *Jacob Tonson*, *Timothy Goodwin*, *Bernard Lintott*, and *William Taylor* to Print this *Report*, with the *Appendix*; and that no other Perſon preſume to Print the ſame.

Sr. Compton, Speaker.

A

REPORT

FROM THE

COMMITTEE *of* SECRECY,

Appointed by Order of the

House of Commons

36939

TO EXAMINE

Several BOOKS and PAPERS laid before the House, relating to the late NEGOTIATIONS of PEACE and COMMERCE, &c.

Reported on the Ninth of June, 1715.

By the RIGHT HONOURABLE

ROBERT WALPOLE, Esq;

CHAIRMAN *of the said* COMMITTEE.

Together with an APPENDIX, containing Memorials, Letters, and other Papers referred to in the said Report.

Publish'd by Order of the HOUSE *of* COMMONS.

LONDON:

Printed for *Jacob Tonson*, *Timothy Goodwin*, *Bernard Lintott*, and *William Taylor*. 1715.

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THE REPORT FROM THE Committee of Secrecy,

The Ninth of June, 1715.

THE Committee of Secrecy appointed to Examine the ſeveral Books and Papers to them referr'd, and to Report to the Houſe what they ſhould find Material in them, having examin'd and conſider'd the ſame, have agreed upon the following Report to be made to the Houſe, containing ſuch Facts and Papers as appear'd to them to be moſt Material, and of the higheſt Importance, together with the Reaſons that induc'd the Committee to lay them before the Houſe for their further Conſideration.

The ſeveral Books and Papers referr'd to the Committee chiefly relate to the late Negotiations of Peace and Commerce; To the intended Demolition of *Dunkirk*; *To the obtaining and diſpoſing of the Aſſiento* Contract; To ſome Negotiations concerning the *Catalans*; and Secret Tranſactions relating to the Pretender.

The Committee was in hopes, in ſo Voluminous an Inquiry, to have been able to Trace out all the Steps, and the whole Progreſs of theſe Negotiations; but to their Surprize they find a want of ſeveral Books, Letters and Papers, mention'd and referr'd to in thoſe that have been deliver'd to them, and frequent and long Interruptions of ſome very material Correſpondences that were carry'd on: But being inform'd, that theſe Accounts are all, which have any way come to the Hands of thoſe who have the Honour to ſerve his preſent Majeſty, the Committee proceeded to draw up the following Report, warranted and founded upon ſuch Authorities as the Perſons concern'd vouchſafed not to ſuppreſs.

The firſt material Paper is Entituled, The firſt Propoſitions of *France*, ſign'd by Monſieur *de Torcy*, *April* 22, 1711. *N. S.* and is here annex'd, *No.* (1.) To whom theſe Propoſitions were directed, what previous Steps had been made on the part of *France*, or what Encouragement had been given on the part of *England*, does not appear; but it is evident that they are conceiv'd in very looſe and general Terms; that from the beginning the Deſign of *France* was to ſecure *Spain* and the *Weſt-Indies* to King *Philip*; to create Jealouſies among the Allies; and that *France* offer'd to Treat with *England* and *Holland* either by themſelves, or jointly with the Reſt of the Allies, which is left to the Choice of *England*.

On the 27th of *April*, 1711. *O. S.* Mr. Secretary *St. John* tranſmits theſe Propoſitions to Lord *Raby*, the Queen's Ambaſſador at the *Hague*, with Orders to Communicate them to the Penſionary, 'to aſſure that Miniſter the Queen was 'reſolv'd in making Peace, as in making War, to Act in perfect Concert with 'the States, and deſires the Secret may be kept among as few as poſſible; 'he confeſſes that the Terms of the ſeveral Propoſitions are very general, that 'there

'there is an Air of Complaiſance ſhown to *England*, and the contrary to *Holland*, 'which might be of ill Conſequence, but can be of none, as long as the Queen 'and States take care to underſtand each other, and to act with as little Re- 'ſerve as becomes two Powers ſo nearly ally'd in Intereſt; and deſires the Pen- 'ſionary to be aſſur'd, that this Rule ſhall on our Part be inviolably obſerv'd.

Lord *Raby* by his Letters of *May* the 25th and 26th, 1711. *N. S.* to Mr. *St. John*, in anſwer to theſe Orders and Aſſurances, acquaints him, 'That the Pen- 'ſionary had, with thoſe of that State who had been formerly employ'd in the 'Negotiations of Peace, conſider'd Monſieur *de Torcy*'s Propoſitions, and the ob- 'liging Manner in which her Majeſty was pleas'd to Communicate them; that 'they thank'd her Majeſty for her Confidence in them, and aſſure her, that 'theirs is reciprocal; and that as her Majeſty had promis'd, ſhe will make no ſtep 'towards a Peace but in concert with them, they deſire ſhe may be aſſur'd of 'the ſame on their Part, and that they will make no ſtep in that, or any other 'kind of Negotiation, which regards the mutual Intereſts of both Nations, but 'in Communication and Concert with her Majeſty; they urge the Neceſſity 'of an entire Confidence one with the other, at this Critical Juncture; they de- 'clare themſelves weary of the War, which they endeavour to conceal from 'the Enemy, leaſt he ſhould make his Advantage by it; and that they are rea- 'dy to join in any Meaſures, which her Majeſty ſhall think proper, to obtain a 'good Peace. But they look upon theſe Propoſitions as yet, in the ſame manner 'as the Secretary does, to be very dark and general, and deſign'd to create Jea- 'louſies between her Majeſty, that Republick, and the Allies; but they depend 'upon her Majeſty's Juſtice and Prudence, to prevent any ſuch ill Effect, and 'hope ſhe will make the *French* explain, more particularly, the ſeveral Points 'contain'd in them.

After theſe mutual Aſſurances had paſſed betwixt *England* and *Holland*, the Committee is ſurpriz'd to find not the leaſt Communication to the States of the Negotiations that were carrying on, for above five Months together, betwixt *England* and *France*, 'till after the ſpecial Preliminaries were ſign'd, and the ſeven general Preliminaries were concluded and ſent to them.

In the mean time Lord *Raby*, not being as yet let into the Secret, freely de- clares, 'He thought it adviſeable, and neceſſary, to go open with the States in 'this Matter of the Propoſitions; acquaints the Secretary that all the Letters 'from *France* agreed, that all the Hopes the *French* had was to ſow Jealouſies 'among the Allies. And repeats his Advice, 'That we muſt act cautiouſly 'with them (the States) that they may have no reaſon to accuſe us, for taking 'the leaſt Meaſures without them.

But it was not long before Mr. Secretary *St. John* prepared his Excellency to have other Sentiments of the manner of carrying on this Negotiation, and in his Letter of the 29th of *May* acquaints him with the agreeable News, 'That 'it was her Majeſty's Pleaſure, that his Excellency ſhould make all poſſible haſte 'to come over, ſince her Service may better diſpenſe with his Abſence at this 'Point of time, than it will perhaps do at another, and ſince we muſt now ex- 'pect to have very ſoon upon the Tapis, many Intrigues, concerning which 'the Queen thinks it expedient that he ſhould confer with the Miniſters here; 'acquaints him, that her Majeſty deſign'd, upon his arrival, to give him the Pro- 'motion in the Peerage, which he had deſired. And then, that his Excellency might begin to have ſome Notions agreeable to the Senſe of our Miniſters, Mr. *St. John* in anſwer to ſome very long Letters of his Lordſhip's, full of his own Reaſonings, and the repeated Aſſurances of the Miniſters of the States to act in perfect Concert and with an entire Confidence in her Majeſty, tells him in theſe Words, *That* Britain *had gone ſo much too far in weaving her Intereſt into that of the Continent, that it would prove no eaſie Task to diſentagle our Affairs without Tearing or Rending.*

But this work of Tearing and Rending did not at all diſcourage his Excellency, who waiting then for ſeveral Poſts from *England*, ſtop'd by contrary Winds, and beginning to ſuſpect that the courſe of the Negotiation was turn'd into another Channel, that the Miniſtry here might be ſatisfy'd that his Lordſhip could with- out much difficulty depart from his own Opinion, he declares in his Letter of *June* the 16th, 1711, *N. S.* to Mr. *St. John*; 'You may be aſſured, I will venture 'any thing and undertake any thing to ſerve the Queen, you may venture bold- 'ly to truſt me with the real Intentions, and be aſſur'd, I will not make further

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'uſe of them, than according to my Inſtructions. He tells him, if the thing is 'actually gone no further than it appears, and *France* has not yet explain'd, and 'he has a mind that he ſhould come over for the Queen's Service, he is ready 'to come in a Yatcht, Frigat, Packet-Boat, or any way; and concludes in ſhort, 'Diſpoſe of me how you pleaſe, for all my deſire is to ſerve her Majeſty to her 'Satisfaction, and I ſhall never grudge any Danger and Pains.

This voluntary and frank Declaration his Excellency deſires in a particular manner, may with his humble Compliments be communicated to the Duke of *Shrewsbury* and Mr. *Harley*.

It has been already obſerv'd, that all Correſpondence betwixt *England* and *Holland*, concerning the preſent Treaty, ended with the Communication of the firſt Propoſitions of *France*; if the *Dutch* had made any Attempt to wreſt the Negotiation out of the Hands of the Queen, if they had enter'd into any ſeparate Meaſures, or taken any Steps that might give juſt Occaſion of Offence or Suſpicion to *England*, 'tis very probable the Accounts of any ſuch Proceedings would have been left by the Miniſtry, for their own Juſtification; but the Committee does not find the leaſt intimation of this kind, and are at a loſs to know upon what Pretence ſuch ſolemn Aſſurances were diſpens'd with as ſoon as made, and the Honour and Name of the Queen ſacrificed to the private views of her Miniſters.

All Tranſactions betwixt *England* and *France* during this time, except two or three Papers, are entirely ſuppreſs'd, which in Lord *Strafford*'s Inſtructions of *October* the 11ſt, 1711 are ſaid to have been carry'd on by Papers ſent backward and forward, and much time ſpent therein; the firſt Paper, that is found, is call'd, Private Propoſitions ſent by Mr. *Prior* from *England*, dated *July* 1. *No.* (2.)

The next is a Paper call'd, Mr. *Prior*'s Authority; this is ſign'd, *Anne R.* at the top, and *A. R.* at the bottom, not counterſign'd, and is without a Date, and the Contents are, *Mr.* Prior *is fully Inſtructed and Authorized to communicate to* France *our Preliminary Demands, and to bring us back the Anſwer.*

Theſe two Papers together muſt be underſtood to be Mr. *Prior*'s Powers and Inſtructions, or are at leaſt all that are found in the Office, or given in by him; but by an Entry in Lord *Strafford*'s Book ſubjoin'd to theſe private Propoſitions carry'd over by Mr. *Prior*, it appears that Mr. *Prior* had Orders to ſee if *France* had full Powers from *Spain*.

Theſe Propoſitions, which were form'd here, leave no room to doubt of the little Concern the Miniſtry had to make good the repeated Aſſurances, that had been given to the Allies, in the Queen's Name, to make the *French* more plain and particular, *ſince in all things that concern the Allies the Engliſh* Propoſals are as dark and general as thoſe that came from *France*; and if this ſtill could be any Queſtion, it is ſufficiently clear'd up in a third Paper, entituled, *Draught of Anſwers upon the Conference with Monſieur* Meſnager, wherein the *Britiſh* Miniſtry is much ſurpriz'd to find 'That Monſieur *Meſnager* had Orders to inſiſt that the 'Queen ſhould enter into particular Engagements upon divers Articles which 'depend not upon her, and which regard the Intereſt of the Allies; they appeal 'to all the Papers which had been ſent backward and forward during this Ne'gotiation, and to that which was carry'd by Mr. *Prior*, that the Principle up'on which they had treated all along was, That *France* ſhould conſent to adjuſt 'the Intereſts of *Great Britain* in the firſt Place. This is a Principle from which 'the Queen can never depart, and that it was abſolutely neceſſary to remit the 'Diſcuſſion of the particular Intereſt of the Allies to general Conferences.

By this it appears, that the Miniſter of *France* was inſtructed to treat of the Intereſts of the Allies, which the *Engliſh* Miniſtry would by no means conſent to.

By Monſieur *Torcy*'s Propoſals, *France* offer'd to Treat with *England* and *Holland*, either by themſelves, or jointly with the reſt of the Allies, not conceiving that *Holland* could poſſibly be excluded from the Negotiation; but it is determin'd by the *Engliſh* Miniſtry to carry on a ſeparate Negotiation with *France*, excluſive of all the Allies, and in their private Propoſitions an Expreſs Article is inſerted, That the Secret ſhould be inviolably kept, 'till allow'd to be divulg'd by the Conſent of both Parties; and thereby *England* put the Negotiation into a Method more Advantagious for *France*, than *France* had propoſed or could hope for.

The Committee think it proper to inſert here the firſt Part of the Eighth Article of the Grand Alliance, wherein it is ſtipulated, *Neutri partium fas ſit, Bello ſeparat*

ſemel ſuſcepto, de Pace cum Hoſte tractare, niſi conjunctim, & communicatis Conſiliis cum alterâ Parte. What will be thought of ſo manifeſt a Violation, as this whole Proceeding appears to be, of the Grand Alliance, the Committee will not take upon them to determine; but this Step being once taken, and Secret Preliminaries ſign'd upon this Foot between *England* and *France*, before any thing had been finally Treated and Concluded for the Security of *Great Britain*, what fatal Conſequences did happen to her Majeſty's Kingdoms, and what Advantages accrued to the common Enemy, ſeems to deſerve the moſt mature Conſideration.

Before we leave theſe Propoſitions it muſt be obſerv'd, that here, in the very Infancy of the Negotiation, the Trade of the World, and the entire *Spaniſh* Monarchy, which had coſt ſo many Millions, and the Effuſion of ſo much Blood, without being once inſiſted upon, contrary to the repeated Addreſſes of ſeveral Parliaments, and the declar'd Senſe of the Queen, are given up by the *Engliſh* Miniſtry to the Houſe of *Bourbon*, for *Verbal Aſſurances* that the Crowns of *France* and *Spain* ſhall never be United; and that this was done ſo early, will be Neceſſary to be remember'd in the further Progreſs of theſe Tranſactions.

There is no Account given of any Correſpondence with Mr. *Prior* during this his Stay in *France*, nor does the certain time of his Continuance there appear. Upon his Arrival in *France*, Monſ. *de Torcy* in his Letter of the 3d of *Auguſt*, 1711, *N. S.* tells Mr. *St. John*, he ſaw with great Pleaſure Mr. *Prior* return after an interval of ſo many Years; that he could have wiſh'd, he had had greater Liberty to employ thoſe Talents which he was perſuaded he would have made a good Uſe of, but he hopes Monſ. *Meſnager* will ſupply what he could not do. Upon his Return he was attended by Monſ. *Meſnager*, a Miniſter of *France*, Veſted with full Powers in due Form, and dated *Auguſt* 3, 1711. to Treat, Negotiate, Conclude, and Sign with ſuch Miniſters, as ſhould be authoriz'd in due form, not by *Britain* only, but any of the Princes or Eſtates then in actual War with *France*.

That Monſ. *Meſnager*, upon his Arrival here, frequently conferr'd with the Queen's Miniſters, appears by many Inſtances; but the ſubject Matter of theſe Conferences, the Times, Places, and particular Perſons with whom he Treated, or by what Authority, the Committee find no Account of, till the 20th of *September*, 1711.

By a Letter of Mr. Secretary *St. John*, then at *London*, of that date to the Queen at *Windſor*, *No.* (3.) it appears, that the Lord Treaſurer, Lord Chamberlain, Lord *Dartmouth*, and Mr. *St. John* met Monſ. *Meſnager* that Evening at Mr. *Prior*'s Houſe; which Meeting, as Mr. *St. John* ſays, was by Order of the Lords of the Committee of Council, but ſeems unknown to the Queen, until the Secretary acquainted her with it by this Letter.

At this Meeting Monſ. *Meſnager* deliver'd to the *Britiſh* Miniſters the Anſwer, ſign'd by the King of *France*, to the Demands laſt ſent over by *England*; which Demands and Anſwers were made the Secret Preliminary Articles betwixt *Great Britain* and *France*, and were ſign'd as ſuch, *September* 27, 1711. by Monſ. *Meſnager* on the Part of *France*, and the Acceptation of them by Lord *Dartmouth*, and Mr. *St. John*, on the Part of *Great Britain*. *No.* (4.)

Mr. *St. John*, in this Letter, repreſents it to the Queen, as the Unanimous Opinion of her Servants, then preſent, that a Warrant and full Powers ſhould be prepar'd that Night, and tranſmitted to her Majeſty to be ſign'd, in Order to paſs the Great Seal the next Day, whereby the Earl of *Oxford*, the Duke of *Buckinghamſhire*, the Biſhop of *Briſtol*, the Duke of *Shrewsbury*, Earl *Poulett*, Earl of *Dartmouth*, *Henry St. John*, and *Matthew Prior*, Eſqrs; were to be Conſtituted Plenipotentiaries, to meet and treat with Monſieur *Meſnager*; which Warrant, and a Tranſlation of the full Powers, were ſent to the Queen. *No.* (5.)

This Warrant under the Signet appears ſign'd by the Queen, directing the Lord Keeper to affix the Great Seal to an Inſtrument thereunto annex'd, containing her Commiſſion to himſelf, and others, therein nam'd, to meet and treat with the Sieur *Meſnager*; but it does not appear, that any ſuch Inſtrument did paſs the Great Seal, the Warrant remains not counterſign'd, and is endors'd *Not uſed*.

This Warrant is dated the 17th of *September*, although 'tis manifeſt, by Mr. *St. John*'s Letter, it was not prepar'd, nor thought of, 'till the 20th.

This antedating ſeems deſign'd, to juſtifie the Miniſters, in their meeting and conferring with the Queen's Enemies, previous to the Warrant; which never

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paſſing into a legal Authority, it appears that theſe Secret Negotiations betwixt *France* and the Queen's Miniſters here, were begun and carry'd on from the 18th of *April* to the 25th of *September*, 1711, when the Warrant to Lord *Dartmouth*, and Mr. *St. John* was ſign'd, without any Powers or written Authority from the Queen; and it is very obſervable that the Queen was brought into theſe Meaſures, by its being repreſented to her by the Secretary of State as the unanimous Opinion of all her Miniſters, to which alone the Aſſent of the Queen is to be aſcrib'd.

But what is more ſtrange, is, that after Mr. *St. John* had repreſented it to the Queen, as the unanimous Opinion of her Miniſters, that full Powers muſt immediately paſs the Great Seal to Authorize them to meet and treat with the ſaid Monſ. *Meſnager*, theſe Powers ſhould be laid aſide: And the Acceptation of the Preliminaries ſign'd by Lord *Dartmouth* and Mr. *St. John*, by Vertue of a * Warrant directed to them two only, ſign'd by the Queen at top and bottom, and counterſign'd by no Body. *No.* (6.)

Where the Obſtruction aroſe to the paſſing theſe Powers, does not appear to the Committee; but thoſe Miniſters ſeem Conſcious to themſelves of what was doing, who ſo readily concurr'd in privately meeting, conferring and treating with the Miniſters of *France*, till this ſeparate Negotiation was brought to Maturity; but avoided to become Parties when the Treaty was to be ſign'd and executed.

This great Care and Caution for their own Perſons, and little Regard for the Honour and Intereſt of their Queen and Country, appears through this whole ſeparate Negotiation: It being very remarkable that there is not one Paper of Powers or Inſtructions throughout the whole Affair counterſign'd by any one Miniſter, but the Queen's Name expos'd to cover all; which looks as if they flatter'd themſelves, that this Omiſſion of their Duty would be ſufficient to ſkreen them from the Juſtice of the Nation, if theſe Matters ſhould ever come to be enquir'd into.

After ſuch a Sacrifice made of the general Intereſt of *Europe*, ſuch a direct Violation of the Grand Alliance, and ſuch unwarrantable and illegal Steps taken in tranſacting and concluding theſe Special Preliminaries between *England* and *France*, it had been but reaſonable to expect in them ſome very particular Advantages and Conceſſions made to *Great Britain*, to attone for ſuch unprecedented Tranſactions; but it is aſtoniſhing to find how inſignificant all the Demands are, that were made on the Part of *Great Britain*; and, inconſiderable as they were, how ineffectual they have ſince been rendred.

Nothing poſſibly could be ſaid leſs with Regard to the Succeſſion, than what is here demanded in the firſt Article. The Queen not yet acknowledg'd by *France*, nor deſign'd to be ſo, 'till the Concluſion of the Peace, as *France* afterwards explain'd this Article at the General Congreſs; not a word of removing the Pretender, nor any Engagement not to ſupport him in any Attempt he might make upon the Nation.

The ſecond Article offers a Treaty of Commerce, in ſuch doubtful Words, as *France* only could make Advantage of.

In the Article of *Dunkirk*, the Equivalent is expreſs'd in ſo ſtrong a manner, and the Demolition ſo very looſely; as could not but bring certain and great Prejudice to our Allies, with very little Proſpect of Advantage to our ſelves; and fatal Experience has convinc'd us, what Security is procur'd for our Navigation by this third Article. But the Hiſtory of this will be further explain'd in its proper Place.

The fifth and ſeventh Articles chiefly regard the *Aſſiento* Contract; what a National Advantage that is like to be, is now too well underſtood to want much Explanation: But with what Views the Miniſters were ſo fond of this, as to make it their chief Care and Concern, will no longer be a doubt when it ſhall appear that this part of the Treaty was calculated only for private Advantage.

What the Miniſtry themſelves thought moſt valuable in theſe Articles, was that Part of the Seventh which grants us an Advantage of 15 *per Cent.* upon our Manufactures ſent to *Spain*: But this great Advantage ſoon vaniſh'd into nothing; and was given up by our Miniſtry here. The Biſhop of *Briſtol* ſays indeed of it, in his Letter of the 17th of *Auguſt*, 1712, † That it was granted by the *French* with a Deſign either to inflame things between us and the *Dutch*, or to give the *French*

* *Vol.* 9. *fol.* 57. † *Vol.* 3. *fol.* 418.

a pretence to ſtipulate for themſelves ſuch particular Advantages in the *Spaniſh* Trade as may be the Ruin of ours.

But what is moſt Remarkable in the Seventh Article is the Introduction to it, in which the Miniſtry confeſs themſelves to have been impos'd upon by *France*; for they declare that from the firſt Propoſals of Monſ. *de Torcy* to that time, they always underſtood that by the real Securities promis'd in thoſe Propoſals, were meant Places; which now was abſolutely refus'd; and they conſent to take for real Securities what they confeſs is none, but what a Love of Peace may induce them to accept as an Equivalent.

What was really of moſt Importance to *England* was the Eighth Article, which relates to *Hudſon's-Bay* and *Newfoundland*; but the Miniſtry ſuffer'd themſelves to be ſo groſly impos'd upon in this Article, that they directly give to *France* all they wanted, which was a Liberty of taking and drying their Fiſh; whilſt *France* gives nothing at all to us, but refers our moſt valuable Intereſts to the general Conferences: Which was but another manner of denying them, as the Event has ſufficiently ſhown.

We demand in the Sixth Article, that we ſhall have all the Privileges that have been or ſhall be granted by *Spain* to the Subjects of *France*, or any other Nation. Whereas the Miniſters ought to have inſiſted that *France* ſhould not upon any Pretence whatſoever be permitted to Trade to the *Spaniſh Weſt-Indies*, which they would not have omitted, if they had had the leaſt regard to the Trade of *Great Britain*, or had not entirely forgot the eighth Article of the Grand Alliance; wherein it is expreſly ſtipulated, as a Condition without which no Peace ſhall be made, *neque ipſis ibidem* (that is the *French* in the *Spaniſh Weſt-Indies*) *Navigatio Mercaturæ exercendæ causâ ſub quocunque prætextu, directè vel indirectè permittatur*. One thing further is to be obſerv'd of theſe Articles, that ſuch of them as any way relate to *Spain* are expreſly granted in the Name and by Vertue of Powers given by King *Philip*, and yet after this, all Intentions of leaving any part of the *Spaniſh* Monarchy to King *Philip* is publickly diſavow'd; as will afterwards appear.

This ſhort view of theſe Special Preliminaries ſufficiently demonſtrates that the Intereſt of *Britain* was not the Inducement to our Miniſters to proceed in this extraordinary manner. Yet trivial as theſe Advantages are, *France* is preſs'd that they may be firſt adjuſted; to what uſe and purpoſe is fully explain'd in the Draught of Anſwers upon the Conferences with Monſieur *Meſnager*, 'That our 'Miniſters may be enabled to engage the Queen to make the Concluſion of the 'general Peace eaſie to *France*.

It is declared, That to ſettle the Intereſts of *Great Britain* in the firſt place is a Principle from which the Queen can never depart; this Plea was made uſe of, to defer the Intereſts of all the Allies to be diſcuſs'd at general Conferences; but the Turn given to it here was to amuſe the People, by perſuading them that the *Engliſh* Miniſtry was contending for great and particular Advantages and Conceſſions to be made to *Great Britain*, that might make us ſome Amends for that great and unequal Burthen which we had lain under through the whole courſe of the War.

But the *Engliſh* Miniſtry having thought fit every where to extol and magnifie the vaſt Advantages that were granted to *Great Britain*, *France* reſolved to make a proper uſe of it, and declar'd theſe Articles were an eventual or conditional Treaty only; and that the King of *France* would not be oblig'd to make them good, but in caſe of the ſigning of a general Peace; in this Senſe Monſieur *Meſnager* ſign'd them, and with this Condition they are accepted on our Part. Hard Terms! That ſuch Conceſſions as theſe were not to be purchas'd at a leſs Price than forcing upon our Allies ſuch Conditions of Peace as *France* ſhould be pleas'd to impoſe upon them; and this the Miniſtry were fully appriz'd of ſome time before they were accepted, for in preſſing to ſettle and adjuſt ſingly and ſeparately the Intereſts of *Great Britain*, they enforce it by ſaying *France*, can run no Risk in ſuch Engagements, ſince the Special Preliminaries will have no Effect till a general Peace ſhall be ſign'd.

By theſe means the Committee obſerve to how fatal a Dilemma the Queen was brought by her Miniſtry; ſhe muſt either now go on through all Adventures in the Meaſures of *France*, or they had it in their Power, by divulging the Secret and expoſing ſuch a notorious Breach of National Faith, to make what Advantage they thought fit of it among the Allies, who muſt from this time think

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themſelves diſengaged from the Queen, if they could find their own Account by looking after themſelves.

And that the *French* were neither ſo ignorant, nor wanting to themſelves as to miſs ſuch an Opportunity, appears above three Months before theſe Articles were ſign'd. When Lord *Raby* in his * Letter of the 20th of *June*, 1711, *N. S.* to Mr. *St. John*, acquaints him, 'That both the Penſionary and Monſieur *Vander Duſſen* had ſeen 'a Letter from Monſieur *de Torcy*, giving an Account that they had begun a 'Negotiation in *England*.

By this Management the *Engliſh* Miniſtry had, under Colour of the Queen's Authority, and the pretence of treating of a Peace, put it in the Power of *France* to diveſt the Queen of all her Allies, and given them greater Advantages than they could any other ways have hoped for.

On the ſame Day that the Special Preliminaries betwixt *Great Britain* and *France* were ſign'd, which it was a fundamental Condition ſhould be conceal'd with the utmoſt Secrecy, another ſett of General Preliminaries on the part of *France*, *No.* (7.) † were ſign'd by Monſieur *Meſnager* only; which Mr. *St. John*, in his Letter to the Queen, ſays, were to be ſent into *Holland*, as the Foundation of a General Peace, in which my Lord Treaſurer had made ſome Alterations to make the whole more palatable abroad. And on the ſame Day, a ſeparate Article was ſign'd in favour of the Duke of *Savoy*, which is here annex'd. ‡ *No.* (7.)

From this time a perfect Confidence was eſtabliſhed between the two Miniſtries of *England* and *France*; and in the Letters written in the Month of *October*, a mutual Sincerity is recommended and engag'd for, and that a perfect Unanimity be maintain'd for accompliſhing the Work in hand.

Lord *Strafford*'s Inſtructions in order to his immediate Return into *Holland* were now preparing, and dated *Oct.* 1. *O. S.* 1711. And as an early proof of the Confidence which Mr. *St. John* repos'd in the *French* Miniſter, he acquaits Monſieur *de Torcy* by his Letter of *October* 2, *O. S.* that the Earl of *Strafford* was going for *Holland*; and ſays, || Your Miniſter, (meaning Monſieur *Meſnager*, who was then going back to *France* and carried this Letter,) is fully inform'd in what the Earl of *Strafford* is to propoſe to the States.

Such Intelligence of the Queen's Counſels, which Mr. *St. John* confeſſes he had given to the Miniſters of the Queen's Enemies, ſeems very extraordinary; eſpecially if it be conſider'd, that Lord *Strafford* was ſent over to preſs the opening the General Conferences, with Aſſurances of the greateſt Friendſhip and Concern for the Intereſts of the States, on the part of the Queen, and by her Authority to procure from *France* juſt Satisfaction for all her Allies; and in his Inſtructions is likewiſe directed to propoſe to the States a new Scheme for carrying on the War, and to acquaint them with ſuch Reſolutions as the Queen had taken concerning it.

Lord *Strafford*'s Inſtructions are hereunto annex'd, *No.* (8.) § wherein almoſt every Article is a Specimen of the Sincerity with which our Miniſters intended to treat the Allies. He is Inſtructed that it muſt be the moſt careful Endeavour and fix'd Principle of all the Confederates to hold faſt together; and this immediately after a ſeparate Treaty had been ſign'd by Us; and if the Miniſters of *Holland* ſhould expreſs any Uneaſineſs at their Apprehenſions of any ſuch private Agreement, he is order'd by evaſive Anſwers to avoid giving them Satisfaction concerning it. But his chief Buſineſs was to deliver to the States the Propoſitions ſign'd by Monſieur *Meſnager*, as the Foundation of a general Peace, and as the whole of what had been Tranſacted; and to acquaint them that *France* had propos'd *Utrecht*, *Nimeghen*, *Aix la Chapelle* or *Liege*, to be the Place for opening the Conferences; to preſs the States to fix upon One of theſe Places, and immediately to grant Paſſports to the *French* Plenipotentiaries to come thither and open the General Conferences.

Theſe Propoſitions, ſo very general and uncertain, did extreamly alarm the States, as not being a ſufficient Foundation upon which a Negotiation might be hazarded; they dreaded the fatal Conſequences of opening the General Conferences, before the Articles offer'd by *France* were explain'd, and made Specifick, and eſpecially before they knew at all what they were to truſt to, for their own Barrier and for their Commerce.

Theſe Conſiderations made them for ſome time decline granting the Paſſports; and in order to prevail with the Queen to have ſome regard to her faithful Allies, and particularly in the two great Articles of their Barrier and Commerce, they ſent

* *Vol.* 1. *fol.* 89. † *Vol.* 1. *fol.* 137. ‡ *Vol* 9. *fol.* 89. || *Vol.* 8. *fol.* 28. § *Vol.* 1. *fol.* 113.

ſent over Monſieur *Buys* to intercede with her Majeſty to alter her Reſolutions; they make the ſame Repreſentations to the Earl of *Strafford*, but all to no Purpoſe. For as Mr. *St. John* declar'd in his * Letter to my Lord *Strafford* of *October* the 9th, 'certain it is that her Majeſty has ſo far determin'd upon her Meaſures, that thoſe will deceive themſelves who may imagine by delay or other Artifices to break them. And again *November* the 2d, to Lord *Strafford*, † 'The Queen 'will not finally concert a Plan for the Proſecution of the War with the States, until they join with her in agreeing to open the Conferences of Peace. And Lord *Strafford* acquaints Mr. *St. John*, *November* the 15th, ‡ 'that he had now told them 'her Majeſty's Order to him was to Declare, That ſhe ſhould look upon any delay 'as a Refuſal to comply with her Propoſitions.

In theſe Circumſtances the *Dutch* at laſt comply to grant the Paſsports, and agree to open the general Conferences at the time fix'd by the Queen, *January* the 1ſt, 1711-12.

The Reſolution of the States General upon this Occaſion is hereunto annex'd, ‖ *No.* (9) as a Paper that muſt have mov'd any ſett of Men, not already determin'd to hear no Reaſon but what came from *France*; for altho' the Repreſentations made by the States, on both ſides the Water, had made ſome Impreſſions, as is evident by a § Memorial deliver'd by Mr. *St. John* to the Abbot *Gaultier*, *October* the 29th, 1711, *No.* (10) and by Mr. *St. John*'s ¶ Letter to Monſieur *de Torcy* of the ſame date, *No.* (71) that accompany'd it; yet 'tis in the Memorial declar'd 'that 'the Queen remains firm in her firſt Reſolution of cauſing the Conferences to be 'opened upon the Articles ſign'd by Monſ. *Meſnager*. The ſame Memorial declares, 'it was abſolutely neceſſary that the moſt Chriſtian King ſhould give to her Ma'jeſty the Queen, ſuch Explications of his Intentions in reſpect to the particular 'Intereſts of the Allies, which he ſhall think proper to engage them to come more 'eaſily into the general Negotiation. So that hitherto 'tis plain, our Miniſters were entirely Ignorant even of the King of *France*'s Intentions with regard to the Allies. And again 'tis ſaid, 'If her Majeſty wiſhes the moſt Chriſtian King would 'give an Explication to the aforeſaid Demands, *&c.* his moſt Chriſtian Majeſty 'may aſſure himſelf, the Queen will make no other uſe of the Truſt the King ſhall 'repoſe in her, but to advance the Negotiation, in ſeeking the ſhorteſt means, and 'the moſt effectual, to obtain a Peace ſo much coveted.

It is therein again acknowledg'd, that the *Dutch* have nothing in view but their Barrier and Commerce; and provided the Queen can, without fear of being diſavow'd, Specifie ſomewhat near the Barrier that *France* will conſent to yield to them, and to aſſure them of the Tariff of 1664, there's no room left to doubt that the States General would come without any further Heſitation into the Negotiation, in the ſame manner as it had been concerted.

But leaſt all theſe Arguments ſhould have no effect, Mr. *St. John* in his Letter to Monſieur *de Torcy*, ſays, 'Theſe Explications will diſſipate all Clouds, and 'you may believe we will make uſe thereof with great Reſerve, when I aſſure 'you, that if the King would offer a Plan of Specifick Preliminaries, the Queen 'will never Communicate it to her Allies; he concludes, If the Sieur *Gaultier* re'turns with theſe marks of Confidence, you will ſee our Parliament as much in'clineable to Peace as ever it was to War.

Here the Committee cannot but obſerve the *Engliſh* Miniſtry begging of *France*, after they had been ſeven Months treating with them, that they may have ſome Intimations at leaſt of what was deſign'd for the Allies; expreſſing their fear of being diſavow'd by *France*, after they had gone theſe lengths with them; declaring the *Dutch* would come into the Queen's Meaſures if they could but know any thing near the Barrier that was deſign'd them, and have Security about their Commerce; perſiſting ſtill, without any ſuch Satisfaction in the Meaſures preſcrib'd by *France*, reſolv'd to force the Allies into general Conferences upon looſe and uncertain Articles, and promiſing if they could but have ſo much Credit with *France* as to be truſted at all, they would uſe it with the greateſt Reſerve, and never communicate it to any of the Allies; for whoſe Satisfaction only it is pretended all this Submiſſion was made.

The Return made by *France* is to be ſeen in a Paper call'd, *† *Anſwer to the Memorial brought by Monſieur* Gaultier, November *the* 18th, 1711. *No.* (11.) This Memorial is accompany'd with a *‡ Letter from Monſieur *de Torcy* to Mr. *St. John*, of the ſame date, wherein he tells him 'his Majeſty wholly depends upon the Se'crecy and good uſe you will make of the entire Confidence he teſtifies to the

'Queen

* *Vol.* 1. *fol.* 121. † *Vol.* 1. *fol.* 273. ‡ *Vol.* 1. *fol.* 285. ‖ *Vol.* 1. *fol.* 341. § *Vol.* 8. *fol.* 40. ¶ *Vol.* 8. *fol.* 48. *† *Vol.* 8. *fol.* 60. *‡ *Vol.* 8. *fol.* 58.

'Queen of *Great Britain*, and the King of *France* extols the Firmneſs of the 'Queen, and ſees with great Pleaſure the new Marks of Reſolution ſhe ſhews.

The Committee think it needleſs to enter into a particular Diſquiſition of this Memorial; but obſerve in general, that nothing had at this time been demanded of *France* concerning the Diſpoſal of the *Netherlands*; and that the King of *France*, not ſatisfy'd with having ſecur'd *Spain* and the *Weſt-Indies* to his Grandſon, propoſes to ſtrip the Emperor of all his Dominions in *Italy*, and to impoſe upon him much worſe Terms than he afterwards procured for himſelf, when left to carry on the War alone. The *Dutch* may have the Tariff of 1664, with ſome Exceptions, if they conſent to this Scheme; if not, they are to be puniſhed with the Loſs of their Trade, and to be reduced to the Tariff of 1699.

But, extravagant as this Scheme was, it is receiv'd by the *Engliſh* Miniſters, without any Surpriſe or Reſentment; and Mr. *St. John*, in his *Letter of the 25th of *November*, 1711, thanks Monſieur *de Torcy* for the Communication of it; promiſes to make a diſcreet Uſe of it, and to keep the Contents with an inviolable Secrecy, and that the utmoſt Efforts ſhould be uſed by *England* to fix the Pretenſions of the Allies; he repreſents it as neceſſary, that all thoſe who wiſh for Peace may mutually help one another, and endeavour to finiſh the Treaty ſo ſoon, as not to be expos'd to another Campaign.

It is indeed no Wonder that this Plan was never communicated to the Allies, which muſt at once have broke off all the Conferences; and determin'd them rather to run all Hazards, than treat upon ſo ruinous a Foundation; but 'tis a Wonder that the *Engliſh* Miniſtry were not ſtartled when they ſaw ſuch a Scene open'd: But this ſhews with what Juſtice the Miniſtry complain'd, that the Allies would not enter into the Queen's Meaſures, when they never were inform'd what the Queen's Meaſures were.

Purſuant to the Reſolution of the States-General upon the preſſing Inſtances of the Queen, Paſſports for the *French* Plenipotentiaries are ſent to Monſieur *Buys*, and delivered to Mr. *St. John*. *Utrecht* is agreed upon here to be the Place for the general Conferences.

The Biſhop of *Briſtol*, then Lord Privy-Seal, and the Earl of *Strafford*, are appointed her Majeſty's Plenipotentiaries.

December the 23d, 1711. her Majeſty's Inſtructions to her ſaid Plenipotentiaries are ſettled and Sign'd, and are hereunto annexed. † *No.* (12.)

The Committee think fit to make one Obſervation upon theſe general Inſtructions, wherein the Plenipotentiaries are order'd, 'That if it ſhall be thought pro-'per to begin by the Diſpoſition of the *Spaniſh* Monarchy, you are to inſiſt that 'the Security and reaſonable Satisfaction which the Allies expect, and which his 'moſt Chriſtian Majeſty has promis'd, cannot be obtain'd, if *Spain* and the *Weſt* 'Indies be allotted to any Branch of the Houſe of *Bourbon*; ſo that hitherto the Queen thought fit to declare in all Publick Acts, that *Spain* and the *Weſt-Indies* ought by no means to be left in the Poſſeſſion of the Houſe of *Bourbon*; altho' in the Special Preliminaries, ſign'd by the Earl of *Dartmouth* and Mr. *St. John*, on the 27th of *September* preceding, the King of *France* did expreſly promiſe to make good the ſixth Article for himſelf, and for the King of *Spain*, purſuant to the Powers which were then in his Majeſty's Hands.

On the 15th of *January*, 1711-12, the *Britiſh* Plenipotentiaries arrive at *Utrecht*; who by their general Inſtructions being order'd to concert Meaſures with the Miniſters of the Allies, and at the Beginning purſuing theſe Directions; Monſieur *de Torcy*, on the 31ſt of *January*, writes to Mr. *St. John*, ‡ and tells him, 'he per-'ceives there was not ſo perfect a Confidence eſtabliſh'd between the Plenipoten-'tiaries of *France* and *Great Britain*, as was to be deſir'd: He believes therefore he 'will think it proper to ſend to the Biſhop of *Briſtol* and the Earl of *Strafford* 'more preciſe Inſtructions concerning the manner in which they were to con-'cert their Proceedings with the King's Plenipotentiaries. And in the Anſwer to the Memorial ſent by Monſieur *Gaultier*, § *March* the 28th, 1712; it is declared, 'the principal Order that the King had given to his Plenipotentiaries, when 'they ſet out for *Utrecht*, was to eſtabliſh a ſtrict Intimacy between them and 'the Miniſters of the Queen of *Great Britain*.

On the 29th of *January*, at the Firſt General Conference, Lord *Strafford* took occaſion to Declare, That the Queen had receiv'd the General Propoſitions as a Foundation for a Negotiation of Peace: but that they were binding to *France* only, and not to the Allies; to which the *French* Miniſters readily aſſented. But it is to be obſerv'd through the whole Proceeding, that this is meant of the Propoſitions ſign'd by Monſieur *Meſnager* only, the Congreſs not having the leaſt Notice or Cognizance of what was ſign'd, both on the Part of *France* and *England*

*Vol. 8. fol. 82. † *Vol. 1. fol. 625.* ‡ *Vol. 8. fol. 122.* § *Vol. 8. fol. 142.*

land too; which had been hitherto conceal'd, and upon all Occaſions publickly diſown'd.

On the 11th of *February* 1711-12, the *French* deliver'd * a ſpecifick Explanation of the General Preliminaries, ſign'd by Monſieur *Meſnager*. *No.* (13.)

It muſt be obſerved that the King of *France* here makes, as well as in the Special Preliminaries, his firſt Offers, in the Name and by Vertue of Powers from his Grandſon as King of *Spain*; how the *Britiſh* Plenipotentiaries could reconcile this to their Inſtructions, and how their Behaviour upon it is to be juſtify'd, is not very clear.

This Explication was received by all the Allies with the greateſt Indignation, and deepeſt Concern; which had ſuch an Effect, that Lord *Strafford* in his † Letter of the 16th of *February*, 1711-12, ſays, 'the *French* Miniſters are mortify'd 'at the general Diſcontent theſe Offers gave; and ſeem to wiſh they had put in '*Tournay* for the *Dutch*, and *St. Venant* to be demoliſhed, to have ſoftned the 'Matter at its firſt coming out.

Nor were our Plenipotentiaries without their Uneaſineſſes: They had done all they could, Lord *Strafford* ſays, to perſwade the *French* to be as ample in the Explication as they could, ‡ 'being that is what will have a great Effect, and ſtrike 'the Minds of unthinking People, and make ſome Work for Reflection for the 'Faction. The Plenipotentiaries complain, they are under great Difficulties on all Hands, for both *Buys* and *Meſnager* think they come ſhort of what had been told them in *England*; and the Allies then forming their reſpective Demands in concert with each other, they want further Orders: The Plenipotentiaries are at a great Loſs how to behave about *Spain*, both in regard to the particular Advantages that were to be ask'd on the behalf of *Great Britain*, and the general Diſpoſition of it.

But Mr. *St. John* ſoon ſends them Words of Comfort, ‖ that Mr. *Harley* will ſet out in a few Days, who is fully inſtructed in all the Queen's Views and Deſires; 'That it were to be wiſh'd this Gentleman could have been ſooner ſent, 'but the Hurry which we have been for ſome time in is inexpreſſible; and he 'was too uſeful to be ſpar'd, 'till the Houſe of Commons was perfectly ſecur'd 'to the Queen's Intereſt, and to the Meaſures of Peace. I think I may ſay 'they are abſolutely ſo now. He confeſſeth the *French* Plan to be too ſcanty. 'That they muſt let the *French* Miniſters know, that the whole turns upon their 'Manner of Proceeding, her Majeſty having gone further than could have been 'expected from her in promoting the Peace.

The Committee cannot but take Notice of the Reflection that is caſt here upon that Houſe of Commons; as if they were ſecur'd to the Queen's Intereſt, and the Meaſures of Peace, by the Management of a Secretary to the Treaſury, a near Relation and a truſty Agent of the Lord High-Treaſurer.

For whoſe Uſe and Service Mr. *Harley* had been ſo well employ'd at home, and was now to be ſent Abroad, cannot be a Doubt, ſince Mr. *St. John* thought it neceſſary to give Monſieur *de Torcy* an immediate Account of his ſucceſsful Endeavours here, and the Buſineſs he was ſent abroad to manage.

In his § Letter of *March* the 4th, to Monſieur *de Torcy*, he tells him, 'He had 'deferred Writing of late, 'till he might write with certainty; 'till the neceſſa-'ry Diſpoſitions were made among our People at home; and 'till the Queen had 'taken the only Reſolution, which could bring us in a ſhort time to a good and 'ſolid Peace. I have now the Satisfaction to tell you that this Reſolution is 'taken, and that Mr. *Harley* will carry with him this Night, or to Morrow 'Morning, the final Inſtructions of the Queen to her Plenipotentiaries. I refer 'my ſelf to Monſieur *Gaultier* to explain to you more at large the Subject of this 'Gentleman's Commiſſion; and what the Queen hopes his moſt Chriſtian Ma-'jeſty will do to cooperate with her.

Theſe Inſtructions of Mr. *Harley* do not appear, but it ſeems the Subject of them was not proper to be committed to Writing; for which Reaſon, as in almoſt all Matters relating to the Pretender, it is referred to Monſieur *Gaultier* to explain them; but what is meant by the neceſſary Diſpoſitions made among our People here at home, is pretty well explain'd by Monſieur *de Torcy*, in a ¶ Memorial dated the 28th of *March* 1712, in Anſwer to what was brought by Monſieur *Gaultier*, wherein he commends the prudent Conduct of the Court of *Britain*, in managing the Houſe of Commons, and in particular their wiſe Conduct in making known to the Houſe of Commons that the Nation was abus'd by its Allies; and ſays, 'the King of *France* aſſures himſelf that thoſe who now manage 'with ſo much Capacity the Affairs of the Queen of *Great Britain*, know how to 'curb the Paſſion of the turbulent Party in the other Houſe.

In

* *Vol.* 2. † *Vol.* 2. ‡ *Feb.* 12, 1711-12. *Vol.* 2. ‖ *Feb.* 16. *Vol.* 2. § *Vol.* 8. *fol.* 130. ¶ *Vol.* 8. *fol.* 142.

In the mean time the Allies having each of them drawn up their reſpective Demands at *Utrecht* met together on the 4th of *March*, *N. S.* to communicate them to each other, as had been concerted, and likewiſe agreed that a Clauſe ſhould be inſerted in their reſpective Demands, for a juſt and reaſonable Satisfaction for all the reſt. Count *Zinzendorff* further inſiſted that the Reſtitution of the whole *Spaniſh* Monarchy ſhould be expreſly mention'd. The *Dutch* declare they were reſolv'd to make good all their Treaties, made on occaſion of this War, as well thoſe that related to *Spain* and the *Indies*, as thoſe made with *Portugal*.

What the Behaviour of the *Britiſh* Miniſters was upon this occaſion, will beſt appear by an Extract of their own Letter of *March* 6, * wherein they give an Account of the whole Proceeding, *No.* (14.) They were the only Miniſters that did not make any mention at all of *Spain* and the *Indies*; and were ſenſible of the diſadvantageous Conſequences of being ſo; they were deſirous to take off this Odium, by ſeeming to ſay ſomething, and in reality to ſay nothing; which they do by a general Declaration concerning the juſt and reaſonable Satisfaction for the Queen's Allies, in Conformity to her Alliances; and humbly hope what was ſaid will not be found contrary to what has hitherto been declar'd.

On the 5th of *March* the ſpecifick Demands of the Allies were delivered to the *French* Plenipotentiaries in Writing; they promiſe to explain themſelves further upon them at the next Conference, which was to be the 9th, and then deſired a further time to the 30th.

On the 30th the *French* Plenipotentiaries declare they were ready to proceed in the Negotiation by debating with the ſeveral Allies; but would give no Anſwer in writing.

This was a great Surprize to all but the *Britiſh* Miniſters, whom the *French* had beforehand advis'd with. The Allies ſtill reſolv'd to preſs the *French* to anſwer in writing, and ſollicite the *Britiſh* Miniſters to join with them in it; who, that no Mark of Diſagreement might appear (as their Lordſhips expreſs themſelves in their Diſpatch of the 1ſt of *April*, 1712, †) did finally conſent to an Inſtance that was to be made the next Day, to require an Anſwer in writing.

But Lord *Strafford* had before given Mr. *St. John* an account of his Opinion in his Letter of the 25th of *March* ‡; wherein he ſays, 'I can't help ſaying I believe the *French* 'have taken the wiſeſt Party not to anſwer in Writing, tho' moſt of the Miniſters of 'the Allies will be ſurpriz'd, expecting they ſhould; and ſays further, I believe it is 'beſt they ſhould firſt begin in the open Congreſs to reaſon upon ſome of the Allies 'Demands, which will occaſion ſo much difficulty that the Miniſters of the Allies 'will propoſe debating ſeparately, which had better come from them than any one elſe.

The *French* Miniſters ſtill perſiſt in their Refuſal, upon which the States came to a Reſolution at the *Hague* not to treat unleſs an Anſwer was given in writing.

However the *French* continue obſtinate. Lord *Strafford* ſends an Account that a Reſolution was taken at the *Hague* to carry Things to an Extremity; upon which Occaſion Mr. *St. John* expreſſes himſelf in this manner, *April* 5, 1712, ‖ 'That he hopes 'the Reſolution taken at the *Hague* to carry Things to an Extremity, was the laſt 'concluſive Pang of an expiring Faction; and yet this Reſolution was no more than to inſiſt on a Demand, in which all the Allies were unanimous, and in which the *Britiſh* Plenipotentiaries had themſelves concurr'd.

But what made the *French* thus perſiſt in the Reſolution of giving no Anſwer in writing, is accounted for in Lord *Strafford*'s Letter of the 27th of *April*, 1712, § wherein he ſays the Penſionary was extreamly deſirous the *French* would anſwer in writing, which ('tis his Lordſhip's Opinion) they will evade 'till they what Succeſs *Gaultier* has had at *London*; and in his Letter of the 30th, 'The *French* will avoid giving their 'Anſwer in writing, 'till they ſee all agreed betwixt their Court and ours.

And to ſhew that the *French* were very well ſatisfied with the method their Buſineſs was in, the Plenipotentiaries in their Letter of *April* 15, 1712, ¶ ſay, 'They do not 'find the *French* are much convinc'd of the neceſſity of Diſpatch, and when any thing 'is let fall of breaking off the Conferences, they ſeem to take it with a great Air of 'Indifference, well knowing their Buſineſs was not to be done at *Utrecht*, but by a 'Negotiation carry'd on directly betwixt *London* and *Verſailles*.

About the beginning of *April*, Mr. *Harley* and Monſ. *Gaultier* arrive at *Utrecht*; in a very few Days after, the *French* Plenipotentiaries communicate to the Lord Privy-Seal and Earl of *Strafford* a Plan for a general Peace, to which they had added by way of marginal Notes, in a diſtinct Column, what they are told will be abſolutely neceſſary in order to a general Peace: But this is entruſted to them under the higheſt Obligation of Secrecy, to diſcover nothing of it to the reſt of the Allies.

Our Plenipotentiaries accept this Plan as a Mark of the great Confidence *France* had in them; and readily engage that the Allies ſhould not be permitted to know a Word of it; and under the ſame Caution ſent it to the Secretary. But there is no room to doubt

* *Vol.* 2. † *Vol.* 2. ‡ *Vol.* 2. ‖ *Vol.* 2. § *Vol.* 2. ¶ *Vol.* 2.

doubt but this Plan that was tranſmitted to *England* as a great Diſcovery, was concerted here, and ſent by Mr. *Harley* to *Utrecht*, and by Abbot *Gaultier* to *France*.

Mr. *St. John* * much concern'd at the Behaviour of the Allies, and the *Dutch* in particular, thinks it proper to make one Attempt more, as he calls it, to gain them; and therefore orders the Plenipotentiaries to acquaint them, that her Majeſty will conſent to their having *Dondermond* and *Ghent*, and at the ſame time depart from her Pretenſions to *Oſtend*, and is willing that the Trade to *Spain* and the *Spaniſh Indies* be ſettled upon the ſame Foot as it ſubſiſted at the Death of the late King of *Spain*, in all reſpects, except the *Aſſiento*; and their Lordſhips are order'd to tell them in very plain Terms, that her Majeſty's Meaſures will be taken according to the Return they make to the Queen on this Occaſion.

But at the ſame time no Communication at all is made to the States, of the general Plan of Peace laſt deliver'd by Monſ. *Gaultier*, as there never had been of any other, altho' in this laſt the Intereſts of all the Allies were ſettled and determin'd between *Great Britain* and *France*.

And to ſhow how candidly we dealt with the Queen's Good Friends and Allies, the *Dutch*, as her Majeſty was pleas'd to ſtile them, the 15 *per Cent.* upon all the Goods and Manufactures of *Great Britain*, which was offer'd at firſt as one of the chief Bribes to *England* to come into this deſtructive Peace, Monſ. *Meſnager* had now explain'd away, and confin'd to ſuch Goods as were carry'd not to *Spain*, but to the *Spaniſh Weſt-Indies* only; and our Miniſters finding that *France* would not make this Effectual, Mr. *Harley* is order'd to let it drop. But ſee the Uſe that is to be made of this Inſincerity of the *French*; at the ſame time that Mr. *St. John* acquaints our Plenipotentiaries with her Majeſty's Conſent to give this up, he tells them, † but you will take care to do this in ſuch a manner, as not only to get ſomething for it another way, but alſo to render this Conceſſion of the Queen's a means of bringing the *Dutch* to reaſon, and to a Compliance with her Majeſty's Meaſures.

Lord Privy-Seal, *April* the 29th, 1712, ‡ acquaints Mr. Secretary, our Negotiation is at a ſtand, till the *French* Miniſters are ready to return one Anſwer or other; and *May* the 10th, 1712, the Plenipotentiaries ſay, 'The *French* tell us they can't think of giving in their Anſwer to the Allies till they hear from *England* the ſucceſs of Monſ. *Gaultier*, and you may believe we wait for it with no leſs Impatience than they do.

Mr. *St. John*, *May* the 3d, 1712, || acquaints their Excellencies, 'I hope in a few Days my Diſpatches will become more material, and that we ſhall be able either to ſatisfie our Friends at *Utrecht*, or not have Reaſon to be much concern'd at their Uneaſineſs.

This ends in Lord *Strafford*'s being ſent for into *England*, and the following Orders are ſent to Lord Privy-Seal for his further Conduct; § 'You are to ſtop all Inſtances for procuring the Tariff of 1664 to the *Dutch*; you are to decline abſolutely to confer any further with them upon any matter, till you receive the Queen's Plan from hence, and that you will not, I hope, be long in Expectation of; and her Majeſty finds ſo ill a Return made by the States to her Condeſcention towards them, that ſhe likewiſe orders your Lordſhip to take the firſt ſolemn Opportunity of declaring to the *Dutch* Miniſters, that all her Offers for adjuſting our Differences were founded upon this expreſs Condition, that they came immediately into the Queen's Meaſures, and acted openly and ſincerely with her; and that ſhe looks upon her ſelf, from their Conduct, now to be under no Obligation whatſoever to them.

The Summary then of this whole Proceeding at *Utrecht* in one ſhort View appears to be this; a Congreſs for general Conferences was neceſſary to be open'd, that the Allies might in Appearance, agreeable to the Grand Alliance, have the Opportunity of treating and adjuſting their ſeveral Pretenſions.

Our Miniſters were by their Inſtructions to act in Concert with the Allies; but they really acted in Concert with the *French* Plenipotentiaries.

The Allies giving in their Specifick Demands was not to be avoided; but the *French* were to gain as much time as they poſſibly could, by unneceſſary Delays; and at laſt inſiſt upon ſuch a Method of anſwering theſe Demands as they knew the Allies could not comply with. In the mean time the Negotiations were carrying on directly between *England* and *France*, or rather all the Conditions dictated and preſcrib'd by *France*, whilſt the Allies were amus'd with a Diſpute about the method of anſwering, from which *France* would not, and they could not poſſibly depart; in which *England* agreed with the reſt of the Allies. All Particulars that concern'd even the Intereſt of the Allies were tranſacted betwixt the Miniſters of *England* and *France*, under the higheſt Obligations of Secrecy: The *Dutch* are preſs'd to come into the Queen's Meaſures, without being acquainted what the Queen's Meaſures were; and becauſe they would not conſent to they knew not what, as ſoon as it was reſolv'd to ſend Orders

* *April* 12, 1712, *Vol.* 2. † *April* 5. *Vol.* 2. ‡ *Vol.* 2. || *Vol.* 2. § *May* 16. *Vol.* 2.

to

to the Duke of *Ormond* not to engage in either Siege or Battle, and the great Projects were ready to be executed on the other ſide of the Water; the Queen declares ſhe looks upon her ſelf now from their Conduct, to be under no Obligation whatſoever to the States General; and thus the Alliance betwixt *Great Britain* and her principal Allie is declared to be diſſolv'd and cancell'd; before any thing was finally agreed and concluded betwixt us and *France*; or we had the leaſt Security for our own Trade and Commerce, or any other Advantages that were to acrue to *Great Britain*.

During theſe Negotiations at *Utrecht*, and the Diſputes that had been induſtriouſly rais'd and kept on foot; the two great Points of the Renunciation of the *Spaniſh* Monarchy, and of the Ceſſation of Arms, had been upon the Anvil.

The firſt mention that is made of the Renunciation in order to be treated of, is found in a Memorial dated *March* the 28th, 1712, * entituled *The Anſwer to the Memorial brought by Mr. Gaultier* the 23d of *March* 1711-12; this Memorial which was receiv'd in *France* the 23d of *March* is ſuppreſs'd, but the Contents of it may in great meaſure be collected from the Anſwer that was given to it. Thus much appears certain, that as the general Propoſal that the Crowns of *France* and *Spain* ſhould never be united aroſe firſt from *England*, and was made an Article in the private Propoſitions ſent over by Mr. *Prior*; ſo from that time to this, the method of preventing that Union does not appear to have been once mention'd. The Senſe of *France* and *Spain* upon that important Article was not known, nor ſo much as ask'd; altho' in every ſtep *France* had given plain Indications, that the Crown of *Spain* was to remain to King *Philip*; and the Committee is ſurpriz'd to find the Miniſtry had gone ſuch Lengths in promoting the Meaſures of *France*, without taking the leaſt Precaution, or having any Satisfaction concerning the Monarchy of *Spain*; wherein the Intereſt of *Great Britain* was by their own Confeſſion more immediately concern'd, than in all their other Articles of the Peace put together.

But it is plain that in this Memorial ſent from *England*, the Scheme for preventing this Union was firſt propos'd by *England*, and that the Expedient was a Renunciation; and as this is a matter of ſuch Importance as deſerves the greateſt Attention; that it may be ſeen in its true Light, the Committee have annex'd the Extract of the Anſwer to the ſaid Memorial, and the ſeveral Letters that paſs'd betwixt Monſieur *de Torcy* and Mr. *St. John* upon this Subject, *No.* (15.) †

In this Memorial Monſieur *de Torcy* declares in the ſtrongeſt Terms, 'That the 'renunciation deſired would be null and invalid by the fundamental Laws of *France*, 'according to which Laws the moſt near Prince to the Crown is of neceſſity the Heir 'thereto; 'tis an Inheritance that he receives neither from the King his Predeceſſor, 'nor from the People, but from the Benefit of the Law, ſo that when one King 'dies, the other ſucceeds him forthwith, without asking the conſent of any Perſon 'whatſoever. He ſucceeds not as Heir, but as the Maſter of the Kingdom, the Seignory whereof belongs unto him, not by Choice, but by Right of Birth only.

'He is not beholden for his Crown either to the Will of his Predeceſſor, or to 'any Edict, nor to any Decree, nor to the Liberality of any Perſon, but to the Law. 'This Law is look'd upon, as the Work of him who hath eſtabliſhed all Monarchies, 'and we are perſuaded in *France*, that God only can aboliſh it. No Renunciation 'therefore can deſtroy it, and if the King of *Spain* ſhould renounce for the ſake of 'Peace, and in obedience to the King his Grandfather, they would deceive themſelves 'that receiv'd it as a ſufficient Expedient to prevent the Miſchief we propoſe to avoid.

Then he gives an account of the Diſpoſition made of the Succeſſion to the Crown of *Spain* by King *Philip*, and regiſter'd in the Councils of *Spain*; which Diſpoſition he propoſes may be confirm'd by the preſent Treaty of Peace, and ratified by the *Cortes* or States of the Kingdom of *Spain*.

Mr. *St. John* in his ‡ Anſwer, *March* 23, 1711-12, *O. S.* rejects this Propoſal, and not at all convinc'd by what Monſieur *de Torcy* had ſo ſtrongly urg'd concerning the nullity of the Renunciation, inſiſts ſtill upon it; 'We are ready, ſays he, to believe you 'are perſuaded in *France*, that God alone can aboliſh that Law, upon which your 'Right of Succeſſion is founded; but you will give us Leave to be perſuaded in *Great* 'Britain, that a Prince may depart from his Right by a voluntary Ceſſion, and that 'he in Favour of whom that Renunciation is made, may be juſtly ſupported in his 'Pretenſions by the Powers that become Guarrantees of the Treaty. In ſhort, Sir, 'the Queen commands me to tell you that this Article is of ſo great Conſequence 'as well for her ſelf as for the reſt of *Europe*, for this preſent Age as for Poſterity, 'that ſhe will never agree to continue the Negotiations of Peace, unleſs the Expedient ſhe has propos'd be accepted, or ſome other equally ſolid.

Monſieur *de Torcy* in anſwer to this Letter, *April* the 8th, *N. S.* ‖ begins to think it cannot be impoſſible to find an Expedient to ſettle this great Affair; and he propoſes that when the King of *Spain* ſhall become either immediate Succeſſor, or preſumptive

* *Vol.* 8. *fol.* 142. † *Vol.* 8. *fol.* 142. ‡ *Vol.* 8 *fol.* 154. ‖ *Vol.* 8. *fol.* 162.

ptive Heir to the Crown of *France*, he ſhall then declare the Choice he intends to make; either to maintain his Right to the Crown of *France*, or keep that of *Spain*; that King *Philip* ſhall become Party to the Treaty, wherein the Succeſſion to the two Crowns ſhall be likewiſe ſettled, and that all the Powers of *Europe* ſhall enter into an Engagement with *France* to maintain it.

Mr. *St. John*, *April* the 6th, *O. S.* * 'reaſons againſt this laſt Propoſal, and the ſeveral Projects contained in Monſieur *de Torcy*'s laſt Letter; inſiſts that no Expedient can effectually ſecure *Europe* from the Dangers wherewith it is threaten'd by the Union of the two Monarchies, unleſs the Prince, who is at preſent in Poſſeſſion of *Spain*, makes his Choice at this very Inſtant; and upon a Suppoſition that the Crown of *Spain* would be his Choice, that this Declaration ſhould be made during the Congreſs at *Utrecht*.

April 26. *N. S.* † Monſieur *de Torcy* ſeeming always to comply with what was deſired, agrees that the Catholick King muſt calm the Uneaſineſs of *Europe*, in declaring from the preſent time what Part he will take, if ever the Succeſſion of *France* is open in his Favour. That the Inconveniencies ariſing from hence, muſt ſubmit to the Publick Good. 'Thus, Sir, ſays Monſieur *de Torcy* to Mr. *St. John*, the King approving your Propoſition, diſpatches a Courier to *Spain*, and writes to the King his 'Grandſon, to let him know the Neceſſity of reſolving on the Choice he ſhall make; 'and to declare it, to the end it may be inſerted in the Treaty of the General Peace, 'and be made a Condition of it, whereof all *Europe* ſhall be Guarantee: And promiſes to uſe all poſſible Means, even Force, if it were neceſſary, to make the King of *Spain* agree to it. He hopes this Propoſition will in a great Meaſure remove all Difficulties; and as they muſt expect new Obſtructions from thoſe who would willingly break the Conferences, he believes the beſt way to diſappoint their Deſigns, would be, for the Queen of *Great Britain* to propoſe immediately a Suſpenſion of Arms; for they ground their Hopes upon the Event of the Campaign.

April the 29th, *O. S.* ‡ Mr. *St. John* anſwers this Letter, and treats this Propoſal as liable to all the Objections of the former, and argues thus upon it. 'Altho' the 'King of *Spain* ſhould at this Inſtant declare his Choice; what greater Security will '*Europe* have if the Execution of that Choice be deferr'd to another time? In offering that he ſhall be oblig'd to declare his Choice at this preſent time, you agree, 'that neither the Stipulations of a Treaty, nor the Guarantee of the Powers engag'd 'in the preſent War, would be ſufficient to ſecure that the Choice ſhall be made; 'how then can we conclude that they will be ſufficient to ſecure that when the 'Caſe ſhall happen, he ſhall quit one Crown to accept of the other, according to 'the Choice which he ſhall now make? He goes on, The Queen has often declar'd, 'that it will be impoſſible for her to be content with any Expedient which ſhall not 'be very ſolid, upon an Article of ſo great an Importance as the Re-Union of the 'two Monarchies. This would be to loſe the Fruit of all the Blood which the Allies had ſpilt in the Courſe of this War; this would be to betray the common Cauſe 'of *Europe*; and to expoſe both the preſent Age and Poſterity to greater Dangers 'than 'tis poſſible to imagine. In ſhort, he inſiſts that they muſt take Care that the 'time ſhall never be, when the ſame Prince ſhall have the Crown of *Spain* upon his 'Head, and the Succeſſion to the Crown of *France* open to him. He at laſt propoſes, if the King of *Spain* prefers the Expectation of the Crown of *France*, to the preſent Poſſeſſion of *Spain*, in ſuch Caſe he ſhall withdraw forthwith with his Family 'out of *Spain*, the Poſſeſſion of which, and the *Indies*, ſhould be given to the Duke of '*Savoy*; that King *Philip* ſhould have the Kingdom of *Sicily* and the Hereditary 'Dominions of the Duke of *Savoy*, together with the *Monferat* and *Mantua*, all which 'Dominions he ſhould remain poſſeſs'd of, tho' he became King of *France*; excepting *Sicily*, which in that Caſe ſhould return to the Houſe of *Auſtria*.

May the 18th, *N. S.* § Monſieur *de Torcy* ſtill yielding and complying with the Meaſures of *England*, ſhows the great Hardſhip the King of *Spain* muſt undergo, in ſacrificing his own and the Intereſt of his Family, for the Eſtabliſhing a General Peace; however the King of *France* would ſend to him to know his Mind upon the two Alternatives. In the mean time the King of *France* promiſes that the Treaty of Peace ſhall be made, upon the Foundation of one of theſe two Propoſitions; either that the King of *Spain* ſhall renounce his Right to the Crown of *France*, and keep *Spain* and the *Indies*; or if he prefers his Expectation upon *France*, he ſhall quit *Spain* and the *Indies* to the Duke of *Savoy*, in exchange for the preſent Dominions of the Duke of *Savoy*, &c. as propos'd by Mr. *St. John*. He hopes by this Promiſe of the King of *France*, all Uncertainties are remov'd; and ſubmits to the Queen's Wiſdom, to conſider what Method would be the moſt conducive to the General Good. 'It would be very unhappy if any Event during the Campaign, ſhould fall out to diſturb the good Diſpoſitions that are ſeen at preſent for Eſtabliſhing the Publick Repoſe.

This

* *Vol. 8. fol.* 170. † *Vol. 8. fol.* 202. ‡ *Vol. 8. fol.* 210. § *Vol. 8. fol.* 262.

This Correſpondence between the two Secretaries for preſenting the Union of the two Kingdoms, carry'd on from about the middle of *March* to the 18th of *May*, 1712, ended at laſt, juſt as it began; and King *Philip* choſe to make the Renunciation. The *French* Miniſter giving us ſuch early Notice, and telling us ſo very plainly, that what we ask'd was utterly inſufficient, and would be for ever deem'd by the unalterable Laws of *France* null and void, is very remarkable. His Dexterity in managing that part of the Negotiation, in ſeeming always to comply, and deſirous to come as near as poſſible to the Propoſals made from hence, and ſubmitting at laſt, ſince we would have it ſo, to the Renunciation ſo peremptorily inſiſted on, is no leſs obſervable.

But it is unaccountable how the *Engliſh* Miniſtry, when they were expreſly told thoſe would deceive themſelves, who ſhould accept of a Renunciation as a ſufficient Expedient to prevent the Reunion of the two Monarchies; when they laid it down themſelves as a Principle never to be departed from, that the Union of the two Monarchies would be the greateſt Miſchief that could poſſibly happen to all *Europe*, and to *Great Britain* in particular; ſhould ſtill perſevere in relying upon this Expedient of a Renunciation. And it cannot be forgot, that no Care was taken to render effectual the two only Expedients, that were ever propos'd for adding any degree of real Security to the Renunciation: Which were, to have it ſolemnly accepted by the States of *France*, and to have it confirm'd by a General Guaranty of all the Powers of *Europe* engag'd in the preſent War. The firſt was ask'd indeed; but upon the Refuſal of *France* was entirely given up by our Miniſtry. The ſecond, by our Method of Negotiating, and our Treatment of the Allies, was from that very time rendred impracticable; as the *French* could not but foreſee. It muſt be remembred, that a few Days after this Anſwer of Monſ. *de Torcy* was receiv'd, Mr. *St. John* ſent Orders to the *Britiſh* Pleniſpotentiaries to declare to the States General, The Queen was now under no further Obligations whatſoever to them, who with the reſt of the Allies were to be Guarantees of this Treaty.

The Committee think it proper to mention here a Paſſage in a Letter from the Lords Pleniſpotentiaries to Mr. *St. John*, *February* the 26th, 1711-12, *N. S.* * who acquaint him, that in ſome Diſcourſe with the Mareſchal *D'Uxelles* upon occaſion of the Death of the *Dauphin*, they deſir'd to know of him, what thoſe Meaſures are which *France* offers to take in Order to prevent the Union of the two Kingdoms; and whether they were to conſiſt in real or verbal Securities; the *French* Miniſter pretended to know no other but of the latter Sort. And then they ſuggeſt to Mr. *St. John*, that an Obligation upon King *Philip* to Renounce the Regency as well as the Crown of *France*, for himſelf and his Poſterity, would amount to ſome degree of real Security. But no Endeavours were uſed to obtain this, nor any mention made of it, as far as appears.

Mr. *St. John*, as Secretary of State, tranſacted this Affair with Monſ. *de Torcy*; but as it can't eaſily be ſuppos'd, that he did this without the Advice and Approbation of the *Lord Treaſurer*, as firſt Miniſter; ſo it appears, that at the ſame time a Correſpondence was held betwixt the *Lord Treaſurer* and Monſ. *de Torcy*: Mr. *St. John* ſays in his Letter of the 24th of *April*, 1712, † He was forc'd to ſtop the Courier which he deſign'd to diſpatch the Day before, to wait for a Letter which my *Lord Treaſurer* writes to Monſ. *de Torcy*; § and *April* the 11th, he was oblig'd to ſtop the Courier till to Day, in hopes that *Lord Treaſurer* would be in a Condition to anſwer Monſieur *de Torcy*'s Letter, but the Defluxion in his Eyes, which has hinder'd him for five Days, ſtill continues. And *April* the 26th, ‡ Monſ. *de Torcy* is very much concern'd for the Indiſpoſition of my *Lord Treaſurer*, and ardently wiſhes he may ſoon recover. 'It is very Impor-'tant, ſays he, that thoſe who, like you and him, have had the principal Share in the Work of 'Peace, ſhould have the Glory of finiſhing it.

Monſ. *de Torcy*'s Letter of the 18th of *May*, *N. S.* ¶ was receiv'd by Mr. *St. John* the 9th of *May*, *O. S.* and the Promiſe of the King of *France* to oblige his Grandſon to accept the Alternative of the two Kingdoms had ſo good and ſudden an Effect, that the Day following, without waiting the Return of the Courier from *Madrid*, to know whether King *Philip* did conſent or not to the Propoſal; ‖ 'Orders are ſent to the Duke of *Ormond* by Mr. *St. John* to avoid engaging in any 'Siege, or hazarding a Battel till further Order. And he is directed to diſguiſe the Receipt of this 'Order. Her Majeſty thinks he cannot want Pretences for conducting himſelf ſo as to anſwer her 'Ends, without owning that which at preſent might have an ill Effect if it were publickly known.

On the ſame Day that theſe *† Orders are ſent to the Queen's General with Directions to diſguiſe them, which was to conceal them from the Confederates, they are communicated to the Queen's Enemies. 'Abbot *Gualtier* will give you an Account, ſays Mr. *St. John* to Monſ. *de Torcy*, 'of the Orders I have juſt now diſpatch'd to the Duke of *Ormonde*. What Mr. *St John* himſelf thought of the Importance of this Order is to be learn'd from his §* Letter to Mr. *Prior*, *September* the 19th, 1712. 'The moment I read the Queen a Letter from Monſ. *de Torcy*, by which it 'appear'd that the King of *France* would oblige his Grandſon to accept of the Alternative of quitting 'one of the two Monarchies, her Orders were diſpatch'd to the Duke to engage in neither Siege or 'Battel: And ſhe prevented the *French* from even making the Demand. I will not ſay that this 'Order ſav'd their Army from being beat, but I think in my Conſcience that it did.

On the 24th of *May*, 1712. ‡* Mr. *St. John* writes again to Monſ. *de Torcy*, altho' they had yet receiv'd no anſwer from *Madrid* concerning the Renunciation, but being preſs'd in time, and finding it neceſſary for the Queen to make the Communication to Parliament, that ſhe had promiſ'd, of the Terms on which a Peace might be made; he acquaints him with the Steps the Queen was reſolv'd to take: Provided the moſt Chriſtian King will render them practicable for her. And in a ¶* Memorial of the ſame date, *No.* (22.) ſpecifies the Conditions upon which her Majeſty conſents to make ſuch important Steps, and deciſive Declarations to her Parliament, as theſe which follow. 'Firſt, That ſhe had ſettled with *France* the Intereſts of *Great Britain*. Secondly, That 'ſhe looks upon the Intereſts of the other Powers engag'd with her in the War, as eaſie to be ad-'juſted; ſince the King offers to the greateſt Part of them, very near what they have demanded, 'and to all a juſt and reaſonable Satisfaction. Thirdly, That ſhe will ſet about accommodating 'the

* *Vol.* 2. *fol.* 3. † *Vol.* 8. *fol.* 158. § *Vol.* 8. *fol.* 182. ‡ *Vol.* 8. *fol.* 202. ¶ *Vol.* 8. *fol.* 261. ‖ *May* 19. *Vol.* 8 *fol.* 250. *† *Vol.* 8. *fol.* 254. §* *Vol.* 9. *fol.* 287. ‡* *Vol.* 8. *fol.* 270. ¶* *Vol.* 8. *fol.* 275.

'the Affairs of her Allies; and that to prevent all the Obſtructions which the Events of the Cam-
'paign might occaſion to the Negotiations of Peace, ſhe had agreed with the King to a Suſpenſion
'of Arms.

The Conditions ſpecify'd in the Memorial, are Demands relating to *North America*, to Commerce, and the Suſpenſion of Arms.

In the Article concerning Commerce, it is ſaid 'That ſeveral Points relating to Trade requiring a 'longer Diſcuſſion than the preſent Criſis would admit, and the Queen being much more intent 'upon ſecuring the General Peace, than any particular Advantages; demands at preſent only the 'two following Conditions. Firſt, That Commiſſaries ſhould be nam'd on both Sides to meet at '*London*, there to examine and ſettle the Duties and Impoſitions to be paid reſpectively in each 'Kingdom. Secondly, That no Privileges or Advantages relating to Commerce with *France*, ſhall 'be yielded to any Foreign Nation, which ſhall not at the ſame time be granted to the Subjects of 'her *Britannick* Majeſty; as likewiſe, no Privilege or Advantage in relation to the Trade of *Great* '*Britain* ſhall be yielded to any Foreign Nation, which ſhall not at the ſame time be granted to the 'Subjects of *France*.

As to the Suſpenſion of Arms, 'Her Majeſty will conſent it ſhall be made for two Months: Pro-'vided, Firſt, That within the ſaid Term the King of *Spain* ſhall either make the Renunciation 'demanded, or ſhall yield *Spain* to the Duke of *Savoy*, upon the Conditions mention'd in Mr. *St.* '*John*'s Letter of the 29th of *April*, *O. S.* Secondly, That the *French* Garriſon ſhall evacuate *Dun-*'*kirk*, and the Queen's Troops be admitted, the ſame day that the Suſpenſion of Arms ſhall com-'mence. Thirdly, That in caſe the States General ſhall at the ſame time conſent to the Suſpen-'ſion of Arms, it ſeems reaſonable they ſhould have the Liberty of putting a Garriſon into *Cambray*.

Upon theſe Conditions your Committee cannot but obſerve, That altho' it was daily inſtill'd into the Minds of the People, that the great Advantages in Trade and Commerce ſecur'd to *Great Britain*, were the chief Inducements to the Miniſtry to engage in theſe Meaſures with *France*, it is here declar'd they were more intent upon the General Peace, than any particular Advantages. And whereas it was laid down as a Principle from which the Queen would never depart, that the Intereſts of *Great Britain* ſhould in the firſt Place be adjuſted; and the great Advantages ſtipulated for theſe Nations, before the Concluſion of the Peace, were to juſtifie the Peace, and all the Steps that were taken to procure it; it is now Evident that no mention was made of our Trade in *Spain*; and for our Commerce in General, the ſettling of that was poſtpon'd, and all Points in Diſpute betwixt *Great Britain* and *France*, were to be referred to Commiſſaries; which Propoſition was not demanded, but voluntarily offer'd by Mr. *St. John*.

On the 8th of *June*, 1712. *N. S.* Monſ. *de Torcy* ſends an Account, '* That the King of *Spain*, 'of the two Propoſitions, had choſen to keep *Spain* and the *Indies*, and to Renounce for himſelf 'and his Deſcendants, the Right to the Crown of *France*. This principal Obſtacle to the Peace 'being remov'd, the King of *France* expects that the Queen will now clear on her ſide the reſt of 'the Difficulties, which may obſtruct this great Work; by making ſuch Declarations as had been 'promis'd upon the return of the Courier from *Madrid*, and as are neceſſary for this end. The 'King thinks the firſt and moſt urgent is, to ſettle a Suſpenſion of Arms, either General, or at 'leaſt between the two Armies in the *Low-Countries*, which may continue till the Concluſion of 'the Peace.

On the 10th of *June*, *N. S.* † Monſ. *de Torcy* acknowledges the Receipt of Mr. *St. John*'s Letter of the 24th of *May*, *O. S.* together with the Memorial; and ſends another ‡ Memorial in Anſwer to it, containing the King of *France*'s Anſwer to theſe laſt Demands of the Queen. *No.* (23.)

He takes Notice, 'That the Letters from the Army mention a Deſign to Inveſt *Queſnoy*, in order 'to beſiege it; but the King cannot think that the Queen approves of ſuch an Undertaking, much 'leſs that her Troops ſhall be employ'd to render it Succeſsful: He concludes, that if a Suſpenſion 'is not immediately made, we may find our ſelves indiſpenſably drawn into ſome great Event, which 'he hopes the Secretary's Prudence and Care will prevent.' And altho' in the Anſwer to the Queen's Demands, nothing Material that was ask'd for our Trade in *North America* is granted, the Evacuating of *Dunkirk*, and admitting an *Engliſh* Garriſon is not agreed to, and the receiving a *Dutch* Garriſon into *Cambray* is abſolutely refus'd, which were propos'd as Conditions of the Suſpenſion of Arms; Monſ. *de Torcy* hopes 'That this return to the Queen's Demands will occaſion 'no new Trouble, but as the Beginning and whole Courſe of this Negotiation was carried on upon 'the *Bona Fide*, and a mutual Confidence of which they had ſeen the good Effects; it is neceſſary to 'baniſh all Diſtruſt, and the Queen to repoſe an entire Confidence in his Majeſty, without inſiſting 'on Demands which may ſerve only to create Jealouſies.

On the 6th of *June*, *O. S.* ‖ Mr. *St. John* owns the Receipt of Monſ. *de Torcy*'s two Letters of the 8th and 10th of *June*, *N. S.* and ſays, altho' the King of *France* had not anſwer'd the Queen's Demands according to Expectation, which were the Conditions on which the Queen was to make ſuch peremptory and deciſive Declarations; yet the Queen would not defer going that day to Parliament, and making all the Declarations that were neceſſary to render the Nation unanimouſly inclin'd to the Peace; that ſhe had not indeed mention'd to the Parliament the Suſpenſion of Arms, but had commanded him to acquaint Monſ. *de Torcy* with the Reſolutions ſhe had taken in Relation to it, and inſiſting upon the Renunciation as the Capital Point of the Negotiation; and for which, Her Majeſty would rather depart from almoſt all the Points that had been agreed upon, than leave that to any Uncertainty. Upon this Foundation the Queen hopes, that the moſt Chriſtian King will not find any thing offenſive in the Demands, which ſhe found her ſelf oblig'd to renew, being Conditions for a Suſpenſion of Arms between the two Armies in the *Netherlands*; which if the King conſents to, ſays Mr. *St. John* to Monſ. *de Torcy*, 'you have only to 'ſign and ſend to the Duke of *Ormond*, who at the ſame time that he takes Poſſeſſion of *Dun-*'*kirk*, will declare to the Allies, that he has Orders to act no further againſt *France*. He ac-'quaints him that Lord *Strafford* was going back to *Utrecht*, that the Inſtructions he was to carry 'will, according to your Deſire, put the Queen's Plenipotentiaries in a Condition to keep no

'longer

* *Vol.* 8. *fol.* 346. † *Vol.* 8. *fol.* 354. ‡ *Vol.* 8. *fol.* 358. ‖ *Vol.* 8. *fol.* 370.

'longer thoſe Meaſures to which they have been hitherto obliged to ſubmit, but from 'henceforth they may openly joyn with thoſe of *France*, and give Law to thoſe who 'will not ſubmit to juſt and reaſonable Conditions; and promiſes when Lord *Straf-* 'ford goes, he will diſpatch another Courier to inform him of the Orders he carries.

Your Committee think it proper to inſert here an Extract of a Letter from the Earl of *Strafford* to Mr. *St. John*, of the 30th of *April*, 1712. *'Thus you ſtill 'ſee the Temper here, and the Time it will naturally take to get the *Dutch* (if 'they will at laſt ſettle a Plan) before it can be done. You ſee the Events we 'are expoſed to by the Operations in the Field the mean time, and you have it by 'this time in your Power to terminate all, and even to ſtop the Operations of the 'Army for a Month, 'till the Negotiation is ended one way or other: There is no 'Pretence now it can be a Prejudice to us, ſhould a Ceſſation be made; for the for- 'mer Pretences are out of Doors, of its being impoſſible for the *French* to make 'Magazines for their Army to take the Field as ſoon as ours, and having burnt theſe 'Magazines at firſt affirm'd impoſſible to be made, for us by that means to be Ma- 'ſters of beſieging either *Cambray* or *Arras*, and our Army's marching to *Paris* is 'ſtopt at leaſt for this Summer in all Appearance. The *French* are now better 'poſted than we are; their Army is much ſtronger. We cannot march to ſur- 'prize them in other Parts of their Lines 'till we have green Forage, which 'wo'nt be up theſe Three Weeks at ſooneſt. They have all their Troops up, 'and we want a great Part of ours, eſpecially the *Imperialiſts*, who, 'tis ſaid, can- 'not joyn the Army in a Month yet; ſo that now the Advantage of a Ceſſation 'of Arms is on our Side, if they will for the ſake of Peace conſent to it. If, upon 'theſe and other Conſiderations, a Ceſſation is thought in *England* neceſſary, the 'Queen muſt not propoſe it, but at the ſame time be reſolved to put it in Exe- 'cution on her Side, if agreed to by the *French*; becauſe ſuch a Propoſition will 'be ſure to meet with Oppoſition, unleſs back'd with Reſolution, and may have 'the Effect of making thoſe who delight in War undertake with ſo much the 'greater Precipitation ſome deſperate Attempt.' Upon what groundleſs Allega- tions the Earl of *Strafford* did here adviſe a Suſpenſion of Arms, is ſubmitted to the Conſideration of the Houſe.

The † Articles for a Suſpenſion, ſigned by Mr. *St. John*, *June* 6, *O. S.* and the An- ſwer, ſigned by Monſ. *de Torcy*, *June* 22, 1712, *N. S.* are annex'd. *No.* (24)

The next Day, *June* 7, *O. S.* Mr. *St. John* writes a ‡ private Letter to Monſ. *de Torcy*, expreſſing the utmoſt Confidence in the good Faith of the Moſt Chriſtian King; thinks it neceſſary to haſten the Peace; tells him, it will frighten the *Dutch* to be told the Queen will act no longer againſt *France*; and that if they do not haſten to make their Agreement, they will have a Burthen upon their Backs which they are not able to bear.

On the ſame Day Mr. *St. John* ſends to the Duke of *Ormond* ‖ Copies of theſe two laſt Letters, and of the Memorial ſent to the Marquis *de Torcy*. They have been, ſays his Lordſhip, prepared by the Queen's Order in Anſwer to the laſt Expreſs which came from *France*, and 'You will perceive by them, my Lord, that the Queen 'inſiſts on the Execution of the Article relating to *Spain*, and on the Delivery of '*Dunkirk*, as Points without which ſhe will not declare for a Ceſſation of Arms 'in the *Netherlands*; but if theſe Conditions are accepted, and ſent ſigned by the 'Marquis *de Torcy* to your Grace, and *Dunkirk* put into your Poſſeſſion, you are 'publickly to own that you can act no longer againg the *French*. If they are not 'conſented to, you are entirely free from Reſtraint, and at Liberty to take all 'reaſonable Meaſures that are in your Power for annoying the Enemy. It is pro- 'bable the Mareſchal *Villars* may receive the Orders which will be ſent him from '*Verſailles* within a Day after this Letter will come to your Hands. Your Grace 'will therefore loſe no Time in acquainting him, that you are in Expectation of 'hearing from his Court that which muſt determine your Proceedings; and that, 'according to the King's Reſolution, you are either to look upon your ſelves on 'both Sides as freed from any Reſtrictive Orders, and in full Liberty of acting a- 'gainſt each other, or that you are openly to declare for a Ceſſation.

The Committee think it neceſſary now to go a little back, and obſerve what Orders and Inſtructions had been given to the Duke of *Ormond*, and what Ac- counts he had ſent of his Proceedings during the time the Correſpondence relating to the Renunciation was carrying on.

On the 12th of *April* 1712, *N. S.* his Inſtructions are ſign'd by the Queen § (*No.* 25.) He is order'd to repair firſt to the *Hague*, and to ſee the Penſionary, before he puts himſelf at the Head of the Troops; to expreſs to him the Queen's Reſolution of preſſing the War with all poſſible Vigour; to aſſure him he is prepar'd to live in a perfect good Correſpondence with all the Generals, and particularly with thoſe

* *Vol.* 2. † *Vol.* 3. *fol.* 39. ‡ *Vol.* 8. *fol.* 374. ‖ *Vol.* 8. *fol.* 378. § *Vol.* 8. *fol.* 376.

thoſe of the States; to inform himſelf what Plan has been agreed for the Operation of the Campaign. And as ſoon as he arrives at the Frontier, to meet with Prince *Eugene*, and ſuch of the Generals as ſhall be in the Secret, and with them to concert the proper Meaſures for entering upon Action.

Your Committee conceive theſe Inſtructions ſign'd by her Majeſty muſt be the Rule of his Grace's Actions 'till countermanded or revok'd by equal Authority, there being no general Direction in them to follow ſuch further Orders as he ſhould receive from a Secretary of State.

On the 24th of *April*, *N. S.* the Duke of *Ormond* gives the Secretary an Account, 'That, according to his Inſtructions, he had given the Penſionary all the 'Aſſurances of carrying on the War with Vigour, and acting in Confidence with 'all the Allies, and more eſpecially the *Dutch*; which were receiv'd with the 'greateſt Profeſſions of Duty and Reſpect to her Majeſty.

On the 30th, * the Duke of *Ormond* had been in Conference with the Council of State, where, his Grace ſays, 'there were great Expreſſions of Duty to her Majeſty. 'They told him there was no particular Reſolution taken as to the Operation of the 'Campaign, but left it to their Generals, who with their Deputies are to act in Con-'cert with the Generals of the Allies; and that they had given Orders to their Ge-'nerals to live in a good Correſpondence with his Grace.

On the 25th of *April*, *O. S.* † which muſt be obſerv'd was before it was known *France* had agreed ſo much as to propoſe to the King of *Spain* the Alternative of the two Monarchies, which was not 'till the 18th of *May*, *N. S.* Mr. *St. John* begins to give the Duke of *Ormond* ſome diſtant Hint of the Scene that was afterwards to be open'd, and tells him, 'The Queen inclines to be of Opinion, that 'all the Troops, whether Subjects or Foreigners, belonging to her, ſhould be im-'mediately under his Grace's Command. There may have been formerly Reaſons 'for uſing a different Method, but there ſeems at preſent to be ſome of a very ſtrong 'Nature for taking this, and perhaps theſe may every Day grow ſtill ſtronger. In-'ſinuates there may be Reaſons to be jealous of Prince *Eugene*; and on this Oc-'caſion his Grace is directed to be more cautious for ſome time of engaging in an 'Action, unleſs in the Caſe of a very apparent and conſiderable Advantage, upon 'Pretence of waiting 'till the *German* Troops were all arriv'd, that they may have 'their Share, if there is to be any Action.

On the 9th of *May*, *N. S.* ‡ the Duke of *Ormond* acknowledges the Receipt of two Letters from Mr. *St. John* of the 16th and 22d of *April*, neither of which appear. But his Grace ſays in Anſwer to the Secretary, 'I am of your Opinion, 'that a Battle won or loſt would at this time make very great Alterations in the 'Treaties now on foot: But you remember that, in my Inſtructions, I am order'd 'to act in Conjunction with the Allies in proſecuting the War with Vigour; ſo 'that, ſhould there happen a fair Opportunity to attack the Enemy, I cannot 'refuſe it, if propos'd by the Prince and States. But I hope to have the Meſ-'ſenger before the Armies are form'd, which will be in 3 or 4 Days.

On the 12th of *May*, *N. S.* ‖ the Duke of *Ormond* expreſſes ſtill the ſame Uneaſineſs, wiſhes to hear from *England* that the Peace is near concluded, but hopes, if it be delay'd, we ſhall have the good Fortune to force the *French* to comply with the Queen's Demands.

But his Grace was now ſoon put out of his Pain by the Order mention'd before of *May* the 10th, *O. S.* not to engage in any Siege or hazard a Battle.

On the 25th of *May*, *N. S.* § The Duke of *Ormond* writes two Letters to Mr. *St. John*, a private Letter and a publick Letter. In the firſt, which was his private Letter, and all wrote in his own Hand, 'his Grace acknowledges the Receipt of 'his Orders, not to engage in Siege or Battle; to which he promiſes an exact 'Obedience, and to keep ſecret his having receiv'd any ſuch Command, and will 'endeavour to hinder its being ſuſpected. But Prince *Eugene* and the States having propos'd to attack the Enemy, or, if that be found too hazardous, to beſiege '*Queſnoy*, his Grace fears it will be very difficult for him to diſguiſe the true Rea-'ſon of his oppoſing all Propoſals that ſhall be made for undertaking any thing, 'having no Excuſe for Delays, all the Troops we expected, and the heavy Can-'non, being to be here on *Saturday*: And he ſays if he could have found Forage 'here, he would have made ſome Pretence to delay the March, tho' the Diſpoſi-'tions of it were made before he received this Letter.

But on the ſame Day his Grace writes another ¶ publick Letter to Mr. *St. John*, after he had receiv'd the Letter of the 10th, as is expreſly ſaid; wherein he takes no Notice of his Orders not to engage in Siege or Battle, but ſpeaks of his having review'd the *Engliſh* Troops, and found them in ſo good a Condition, that muſt convince all the Allies how groundleſs the Complaints are that have been made of our

* *Vol.* 8. *fol.* 180. † *Vol.* 8. *fol.* 198. ‡ *Vol.* 8. *fol.* 282. ‖ *Vol.* 8. *fol.* 230. § *Vol.* 8. *fol.* 287. ¶ *Vol.* 8. *fol.* 294.

our Backwardneſs, of which he ſays, 'I believe you will now hear no more. He goes on, 'If we find an Opportunity to bring the Enemy to a Battle, we ſhall 'not decline it.

On the 28th of *May*, the Duke of *Ormond*, * in his Letter to Mr. *St. John*, ſays, 'Yeſterday Prince *Eugene* and the States Deputies deſir'd that I would conſent to 'ſend the Quarter-Maſters to view the *French* Camp; which I could not refuſe, 'without giving them ſome Suſpicion of what I am order'd to diſguiſe; but I 'was ſure that nothing of Action could happen, the Enemy being behind the 'Schelde. The Detachment that went with them were Forty Squadrons, and all 'the Grenadiers of my Army to ſupport them and make good their Retreat, ſhould 'the Enemy have endeavour'd for to have attack'd them. They went as far (I 'mean the Horſe) as *Cateler*, where the Right of the Enemy's Army lies, and are 'come back without ſeeing any of the *French* on our Side the *Schelde*.

'The Diſtance between the Head of the *Somme* and that of the *Schelde* is not 'above a League and a Half, which is a Plain, and the Enemy have not yet of-'fer'd to throw up any Retrenchment: May be to Morrow they will begin to 'work, ſince they have ſeen our Troops reconnoitring that Way.' Prince *Eugene* and the Deputies being to dine with his Grace the next Day, he was under Apprehenſions they would preſs him to undertake ſomething immediately, which it would be very hard to conceal the true Reaſon of his refuſing, having no reaſonable Excuſe for it.

In this † Letter his Grace gives an Account of a Letter that he had receiv'd from Mareſchal *Villars*, and the Anſwer that his Grace wrote to the Mareſchal.

This Correſpondence, which on both Sides is inſiſted upon to be kept as the moſt abſolute Secret, is founded upon a Poſtſcript in Mr. *St. John*'s Letter of *May* the 10th to the Duke of *Ormond*; wherein he tells his Grace 'Communication is given 'of this Order to the Court of *France*; ſo that if Mareſchal *Villars* takes any pri-'vate way Notice of it to you, your Grace will anſwer accordingly.

May the 25th, *N. S.* Mareſchal *Villars* acquaints his Grace, ‡ 'That he had the 'King's Orders, and the Queen of *England*'s Conſent, to write to him as ſoon as he 'receiv'd the Courier; and whatever Glory is to be acquir'd againſt a General whoſe 'Valour is ſo well known among them, he deſires him to be aſſur'd that he never 'receiv'd more agreeable News than that they were to be no longer Enemies.

The Duke of *Ormond* in Anſwer acquaints him, That he had receiv'd Orders from the Queen upon the ſame Subject, to which he would not fail to conform himſelf in the moſt exact Manner.

This is conformable to the Intimation given by Mr. *St. John*, That if Mareſchal *Villars* takes any private way Notice of his Orders, his Grace was to anſwer accordingly.

But his Grace proceeds further, and ſays, 'The Motion which we are going to 'make is principally for the Subſiſtance of our Troops, ſo that you need not be 'under any Apprehenſion at this March; at leaſt I can anſwer for the Queen's 'Army which I have the Honour to command.

Your Committee is at a Loſs to account for this Tranſaction, unleſs his Grace had Orders not only not to act againſt *France*, but to give the *French* General Intelligence of all that was deſign'd in the Confederate Army.

The Report being made by the Quarter-Maſters-General, who went with the Detachment to view the *French* Camp, and the Overture between the Sources of the *Somme* and the *Schelde*, and they all agreeing that the Ground was as advantagious as could be, their Situation being ſuch as gave an Opportunity of falling upon their Flank and Rear, it was propos'd to the Duke of *Ormond* to march without the leaſt Delay to the Enemy, and to attack them.

What his Grace did upon this Occaſion is beſt to be learnt from his own Words in his Letter of *May* the 29th to Mr. *St. John*. ‖ 'You may eaſily imagine the Dif-'ficulty that I was under to excuſe the delaying a Matter, which, according to the 'Informations I had from the Quarter-Maſters-General, and ſeveral other General 'Officers that went out with the Detachment, ſeem'd to be ſo practicable. The 'beſt Excuſe I could make was Lord *Strafford*'s ſudden Voyage to *England*, which 'gave me Reaſon to believe there muſt be ſomething of Conſequence tranſacting, 'which a Delay of Four or Six Days would bring to Light, and therefore I deſired 'they would defer this Undertaking, or any other, until I ſhould receive freſh 'Letters from *England*.

Your Committee cannot better repreſent the favourable Opportunity that was here loſt to the common Cauſe, and the Advantage, or rather Deliverance, that was ſecured to the Common Enemy, than in a § Letter from the Deputies of the States to the Duke of *Ormond*, *June* the 4th, *N. S.* *No.* (26.)

Theſe

* *Vol.* 8. *fol.* 296. † *Vol.* 8. *fol.* 300. ‡ *Vol.* 8. *fol.* 305. ‖ *Vol.* 8. *fol.* 309. § *Vol.* 8. *fol.* 318.

* Theſe Repreſentations and the preſſing Inſtances made by Prince *Eugene*, are entertained by Mr. *St. John* as affected Alarms and Clamours raiſed with much Induſtry, but ſuch as gave Her Majeſty no Uneaſineſs whatſoever.

† But they began to make ſome Impreſſions upon the Duke of *Ormond*; he grew ſenſible of the ill Blood and Diſſatisfaction cauſed among the Allies by the Meaſures he was obliged to take, who did not ſtick to ſay we were betraying them. He ſends an Account, that Prince *Eugene* and the States Deputies had reſolved to beſiege *Queſnoy*, which Place was that Day, *June* 8. *N. S.* 1712. inveſted; and although he had nothing to do in the Operation, he could not refuſe furniſhing ſome Troops in the States Pay, but had avoided giving any in the Queen's whole Pay.

We are now come again to the 7th of *June*, *O. S.* when Mr. *St. John* ſent to the Duke of *Ormond* his Letters of the 6th and 7th to Monſ. *de Torcy*, and the laſt Articles propoſed by *Great Britain* for a Suſpenſion of Arms; and it is to be obſerved, that hitherto it was an entire Secret between the *Engliſh* and *French* Courts and their Two Generals, that neither Siege or Battle was to be engaged in by the Duke of *Ormond*. Prince *Eugene* and the whole Confederacy were as yet amuſed with Hopes that the Duke of *Ormond* might be permitted in ſome Degree to comply with his Inſtructions, and the ſolemn and repeated Aſſurances that had been given, to act in Conjunction with the reſt of the Allies: But the Time was now come, when the Secretary's Care and Prudence was to deliver the *French* King from the Apprehenſions under which Monſ. *de Torcy* had ſo often declared him to be for the Events of this Campaign: And altho' the Suſpenſion of Arms was preſs'd and inſiſted upon by *France*, and was to be granted purely for the ſake and Preſervation of the *French* Army, which in all reaſon ſhould have brought them to a Compliance with the Demands ſent from *England*; yet ſo very tractable did our Miniſtry prove, that *France*'s refuſing the Conditions at firſt propoſed for granting a Suſpenſion of Arms, had no other Effect but to make us lower the Terms upon which they were to accept what could be no Advantage to *England*, but was of the higheſt Importance to *France*.

When theſe laſt Conditions were ſent to the Duke of *Ormond*, with the Orders that attended them, it is to be obſerved, that Mr. *St. John* declared the Queen inſiſted on the Execution of the Article relating to *Spain*, and on the Delivery of *Dunkirk*, as Points without which ſhe would not declare for a Ceſſation of Arms: So that if theſe Conditions were not abſolutely conſented to, if the Anſwer from *France*, which was to determine the Duke of *Ormond*'s Meaſures, was not ſigned by Monſ. *de Torcy*, and *Dunkirk* was not put into the Poſſeſſion of the Duke of *Ormond*, his Grace was at entire Liberty to act againſt *France*; but upon theſe Conditions the Duke of *Ormond* was ordered immediately to declare a Ceſſation of Arms.

The Committee cannot but think this Order in itſelf of a very extraordinary Nature, altho' conditional; and the Miniſtry ſeem in very great Haſte to give all up into the Hands of *France*, when the Queen's General, at the Head of a Confederate Army in the Field, at that Time covering a Siege, which the Allies were engaged in, ſhould be ordered to govern himſelf according to ſuch Significations as ſhould come from the Court of *France*, and thoſe tranſmitted him by the General commanding the Enemy's Army, whoſe Duty it was by Force or Stratagem to raiſe the Siege, or gain any Advantage he could over the Allies.

On the 22d of *June*, *N. S.* ‡ an Anſwer to the Propoſals laſt ſent over was tranſmitted to Mr. *St John*, ſigned by Monſ. *de Torcy*, with Two Alterations, one no leſs material, than whereas it was demanded that the Renunciation ſhould be ratified in the moſt ſolemn Manner by the States of *France*, which had been mentioned before as one of the chief Securities to make it as effectual as any thing could, it is here ſubſtituted, that it ſhall be regiſter'd in the ſeveral Parliaments: And to the Article of *Dunkirk* is added, That all the King's Officers, both Land and Sea Officers, ſhall have Liberty to ſtay at *Dunkirk*, and to execute their ſeveral Offices. And on the ſame Day Monſ. *de Torcy* writes ‖ Two Letters to Mr. *St. John*, the one a publick Letter, explaining at large the Alterations; the other a private Letter to prevail with him to conſent to theſe Alterations. And it may be here obſerved, that there are ſeveral Inſtances of ſuch a private Correſpondence carry'd on between the Two Secretaries.

At the ſame time, a Copy of the Memorial and the Anſwer was ſent to the Mareſchal *Villars*, who with his § Letter of the 24th of *June*, *N. S.* ſends the Copies to the Duke of *Ormond*, and tells him the Originals were ſent to *England*; and doubts not but the Suſpenſion of Arms would immediately take Effect.

* May 27, 1712. *Vol.* 8. *fol.* 330. † June 8. *Vol.* 8. *fol.* 342. ‡ *Vol.* 8. *fol.* 438. ‖ *Vol.* 8. *fol.* 434 *and* 438. § *Vol.* 8 *f.* 419.

But

But it appears by the Duke of *Ormond*'s Letter to Mareſchal *Villars* of the 25th of *June*, That theſe were only Copies and not ſign'd, for his Grace ſays, It were to be wiſh'd that the Marquis *de Torcy* had given himſelf the trouble to ſign them, as being more agreeable to his Grace's Inſtructions; but that he may not ſtop ſo good a Work by Difficulties and Scruples, he will not inſiſt upon Formality: He promiſes to go immediately to Prince *Eugene*, and the States Deputies, to perſwade them to abandon the Enterprize upon *Queſnoy*, and to declare, That in caſe of a Refuſal, he ſhall be oblig'd to withdraw the Queen's Army; and as ſoon as the Troops which he ſhould detach for that Purpoſe had taken Poſſeſſion of *Dunkirk*, the Suſpenſion of Arms ſhall take place.

On the 27th of *June*, the Duke of *Ormond* gives Mr. *St. John* an Account, That he had been with Prince *Eugene*, and the States Deputies, and had acquainted them, that the *French* King having agreed to ſeveral Articles demanded by the Queen as the Foundation of a Ceſſation of Arms, he could no longer cover the Siege of *Queſnoy*; but was oblig'd by his Inſtructions to march with the Queen's Troops, and thoſe in Her Majeſty's Pay, and to declare a Ceſſation of Arms as ſoon as the Town of *Dunkirk* was deliver'd up.

The Duke of *Ormond* having had this Conference with Prince *Eugene*, and the States Deputies, according to his Promiſe, ſends a ſecond Letter to Mareſchal *Villars* of the ſame Date, and tells him, He apprehends that the Generals of the Auxiliaries paid by the Queen, will not leave Prince *Eugene*'s Army without particular Orders from their reſpective Maſters.

An Account of this being ſent to the Court of *France*, Monſieur *de Torcy* diſpatches an Expreſs *June* the 27th, *N. S.* and declares if the Foreign Troops in *Engliſh* Pay did not abandon Prince *Eugene*'s Army, the Condition upon which *Dunkirk* was to be deliver'd being not perform'd, it would be unreaſonable for *England* to inſiſt that *Dunkirk* ſhould be given into their Hands; and appeals to the Title of the Memorial, that imported a Ceſſation of Arms between the two Armies in the *Netherlands*: He inſiſts, that poſitive Orders be ſent to the Duke of *Ormond* to withdraw all the Troops in *Engliſh* Pay; and when theſe Orders ſhall have been punctually comply'd with, the King will perform his Promiſe of delivering *Dunkirk*.

The Duke of *Ormond* having already declar'd abſolutely to the Allies, that he could no longer cover the Siege of *Queſnoy*, remains in a State of Inaction, though 'tis plain by his Orders he was now free from all Reſtraint, the Anſwer not being ſign'd by Monſieur *de Torcy*, as was expreſly requir'd, ſome material Alterations being made in the Conditions relating to *Spain*, which his Grace had then no Notice that the Queen had conſented to, and Mareſchal *Villars* refuſing to give him the Poſſeſſion of *Dunkirk*, which were declar'd Points without which the Queen would not conſent to a Ceſſation of Arms.

And that the Duke of *Ormond* was himſelf of this Opinion, is evident from his own Letter to Mr. *St. John* of *June* the 29th; wherein he excuſes his deferring ſeparating the Troops, and marching towards *Dunkirk*, until he had ſufficient Aſſurance that Place would be ſurrender'd to him; and then his Grace ſays the contrary appears now ſo evidently, that I ſhould look upon my ſelf immediately at Liberty to act in Conjunction with the Allies; but I do not take upon me to make a Step of ſuch conſequence without the Queen's particular Orders, which I ſhall expect with the greateſt Impatience.

Theſe unexpected Reſolutions of the Foreigners in the Queen's Pay not to abandon their Allies, and leave them at the Mercy of the *French* Army, very much diſconcerted our Meaſures here for a ſhort time; but on *June* 20, *O. S.* N° (27) Mr. *St. John* writes to Monſieur *de Torcy*, That the Accounts from the Duke of *Ormond* were conformable to what he had ſent, which gave the Queen a ſenſible Diſpleaſure; but as Her Majeſty had taken a firm and unalterable Reſolution not to yield to any Difficulties, he doubts not to ſucceed, and believes Monſieur *de Torcy* will be convinc'd of this Truth when he has read over this Letter: That he had juſt then told the Miniſters of thoſe Princes who have Troops in the Queen's Pay, that unleſs they obey the Duke of *Ormond*'s Orders, Her Majeſty will take it as a Declaration againſt Her, and from that Time they ſhall not be paid: That if the *French* King will deliver *Dunkirk*, the Duke of *Ormond* ſhall retire with the *Engliſh* Troops, and all thoſe Foreigners that will obey him, and declare the Queen will act no longer

againſt *France*, nor pay thoſe that will, and will make no Difficulty to conclude immediately a ſeparate Peace with *France*, leaving the Allies a Time wherein they may have Liberty to ſubmit to ſuch Conditions as ſhall be agreed upon betwixt the Queen and the Moſt Chriſtian King. See, Sir, the Peace in the King's hands; if the Duke of *Ormond*'s whole Army conſents to the Suſpenſion of Arms, our firſt Project proceeds; if they will not conſent, the *Engliſh* Troops will withdraw, and leave the Foreigners to ſeek for their Subſiſtence from the States, who very far from being able to furniſh new Expences, are not capable to ſupport what they have already upon their hands. In ſhort, *Britain* retiring from the Theatre of the War, and leaving it to thoſe that are in no condition to make head againſt *France*, the Peace may be concluded between the two Crowns in a few Weeks. Theſe, Sir, are the Propoſitions which the Queen commands me to make, and believes the King of *France* will find his Account at leaſt as much the laſt Way as the firſt. He once more deſires him to ſend an Expreſs to the Duke of *Ormond*, that he may know how to regulate his Conduct; and if he ſignifies to him that the King has given Orders to the Governor of *Dunkirk* to admit the *Engliſh*, his Grace will immediately do all that he has ſaid. He acquaints him further, That the Queen was reſolv'd to ſend the Earl of *Strafford* immediately to the Army. On the ſame Day Mr. *St. John* ſends a Copy of this Letter to the Duke of *Ormond*; and to ſhew his own Opinion of this extraordinary Piece in a Poſtſcript, he ſays, I need not caution your Grace that the inclos'd for Monſieur *de Torcy* is fit to fall under the Eye of no Perſon whatſoever but your Grace: As for his Inſtructions at this critical Conjuncture, they are ſuch as Her Majeſty thought deſery'd ſending the Earl of *Strafford* on purpoſe to the Army; and his Grace is order'd to give Mareſchal *Villars* an Account of the Endeavours the Queen had us'd to ſubdue the Obſtinacy of thoſe who refus'd to obey, and of his Expectations to hear from him on an Expreſs ſent to *France*; and a ſecond time, according to what was ſaid to Monſieur *de Torcy*, his Grace is order'd, if he receives an Account from the Court of *France* that Her Majeſty's laſt Propoſals are agreed to, and Orders diſpatch'd for the Surrender of *Dunkirk*, without any more to do, to declare the Suſpenſion between *Great Britain* and *France*, and to keep the whole Body that ſhall obey his Orders entire, and to withdraw in the beſt manner his Circumſtances will allow.

This Offer was no ſooner receiv'd in *France*, but without the Loſs of one Moment's time accepted and conſented to, as Monſieur *de Torcy* acquaints Mr. *St. John*, *July* the 5th, *N. S.* He takes care to mention very particularly all the Reaſons and Engagements which had been ſo plainly and explicitly propos'd; and upon Condition that the Queen does immediately make a ſeparate Peace, keep no Meaſures with Her Allies, but only leave them a Time to ſubmit to the Conditions that ſhall be agreed upon for them between *France* and *England*, the King of *France* hath determin'd to ſend his Orders to permit the *Engliſh* Troops to enter into *Dunkirk*; and at the ſame time a Courier was diſpatch'd to Mareſchal *Villars* to carry him theſe Orders. And as a general Ceſſation from all Hoſtilities both by Land and Sea between the two Nations, had been propos'd by *England* 'till their Treaties could be finiſh'd, the King of *France* with the ſame Readineſs conſents to that.

This Account was no ſooner receiv'd in *England*, but freſh Orders are ſent to the Duke of *Ormond*, as ſoon as he ſhall hear that the Governor had receiv'd Orders to evacuate *Dunkirk*, and to admit the Queen's Troops into the Place, without loſing a moment, if he had not already done it, to declare a Suſpenſion of Arms; and to withdraw all the *Engliſh* Troops, and ſuch others as would obey his Orders; and leaſt any Accident might ſtill obſtruct this Project, his Grace by Mr. *St. John* is told, He muſt obſerve that the Order is poſitive, and that no Caſe can poſſibly happen in which Her Majeſty will allow that any other Meaſure ſhould be taken; and Mr. *St. John* is much concern'd that the Earl of *Strafford* will arrive at the Army later than was to be wiſh'd, from whom his Grace was to receive thoſe Lights and Informations for his Guidance in this nice Conjuncture, that he is amply inſtructed to give him.

On the 12th of *July*, *N. S.* Lord *Strafford* arrives in the Camp; on the 14th Prince *Eugene* ſends the Duke of *Ormond* Word by an *Aid de Camp*, That he intended to march the next Morning with a Deſign, as was ſuppos'd, to attack *Landrecy*. The Duke of *Ormond* is much ſurpriz'd at the Meſſage; refuſes to

march

march with him, or to give him any Aſſiſtance from the Queen's Troops, but lets the Prince know, that when he march'd, his Grace ſhould be oblig'd to take the beſt Care he could for the Security of the Queen's Troops, and to change his Camp in Order to it.

On the ſame Day Mareſchal *Villars* giving the Duke of *Ormond* an Account, that he had ſent by Colonel *Lloyd* Orders for the Delivery of *Dunkirk*, ſays, Permit me Sir to have the Honour to tell you, tho' it be very advantageous not to be obliged to engage the braveſt and boldeſt of our Enemies, yet 'tis very important to know thoſe that remain ſo, and I take the Liberty to deſire you will do me the Honour to ſend me Word what Troops and what Generals will obey your Orders, becauſe the firſt Attempt the Enemy makes, I will not loſe one Moment to meet them: The King gives me a Liberty to fight, which Nothing but the Negotiations has hitherto prevented, and which the Army under my Command has a great Deſire to make uſe of. I think the Work is finiſh'd if the Army which is under your Orders obeys them. This then, Sir, is no indiſcreet Curioſity, that I preſume to deſire you to give me ſome Lights upon the Doubts which I am in.

I ſhall be very much oblig'd to you Sir, if by the Return of this Trumpet you'll honour me with one Word of Anſwer; upon the Lights which I have deſired of you.

You'll give me Leave to join to this Pacquet a Letter for my Lord *Strafford*.

On the 15th of *July*, the Duke of *Ormond* in Anſwer to this Letter ſays, I ſhould be glad I were at preſent in a Capacity to give you all the Inſight you deſire, but it is yet impoſſible for me. Notwithſtanding I was unwilling to delay ſending back the Trumpet, to let you know I am well aſſured, I ſhall be capable of telling you to morrow, particularly what Troops will remain under my Command.

As to the Suſpenſion of Arms you already know, Sir, that according to my Orders I cannot declare it in Form, 'till I am aſſured the Governour of *Dunkirk* ſhall have executed all the King's Orders for the Evacuation of the Place. His Grace adds, In the mean Time you will agree with me Sir, that the ſaid Suſpenſion has already its Effect on my Side, ſince I have juſt now inform'd Prince *Eugene* and the States Deputies, that in Caſe they ſhould undertake any new Operation, I could not give them any Aſſiſtance with the Queen's Army.

On the 16th, the Duke of *Ormond* writes again to Mareſchal *Villars*, and ſays, Your Trumpet juſt now put into my Hands the honour of your Letter of the 15th, and I am now to acquit my ſelf of the Promiſe I made you yeſterday. Prince *Eugene* is march'd this Morning, and all the foreign Troops have quitted us except one Battalion and four Squadrons of *Holſtein*, and two Squadrons of *Waleſ*. He adds, Things having paſſed as I have the Honour to tell you, I thought my ſelf oblig'd to acquaint you of it as ſoon as poſſible, and as I obſerved to you yeſterday, the Suſpenſion of Arms has already its Effect on my part by the Separation I have made of the Queen's Troops, and all her Artillery, from thoſe of Prince *Eugene*, and by my declaring to him, I could give him no Aſſiſtance, and that the Payment of the foreign Troops is ſtopp'd, and that by Conſequence there is fallen upon the Emperour and *Holland* a Burthen they will not be long able to ſupport; I truſt, Sir, to your good Faith, and ſhall to morrow make a Movement to put my ſelf into another Situation, and I hope I ſhall have News from *Dunkirk*, that will authorize me to declare the Suſpenſion of Arms.

On the ſame Day Mareſchal *Villars* acquaints the Duke of *Ormond*, that the Governour of *Dunkirk* was making the neceſſary Preparations to evacuate that Place: He tells his Grace, For my part, Sir, as I already reckon you for our Ally, I am not at all in haſte to have you further off, you are at your own Liberty to come near us, and encamp on the King's Territories, where-ever you ſhall think proper. Upon this the Duke of *Ormond* the Day after order'd a Ceſſation of Arms to be proclaim'd by Sound of Trumpet.

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Had the firſt Deſign taken Effect, which was depended upon by *France*, and ſo far preſum'd by *England* as to be undertaken for, that all the Foreigners in the Queen's Pay, that compos'd the Duke of *Ormond's* Army, ſhould ſeparate and withdraw from the reſt of the Allies, it is notorious, that from that Inſtant Prince *Eugene's* whole Army, unleſs they ſubmitted to the ſame Meaſures, had been left at the Mercy of the *French* Army to be cut in Pieces, or made Priſoners at the Will of Mareſchal *Villars*, which had left the Queen's Troops in no better a Condition than to have the Privilege of being laſt deſtroy'd; yet all the Allies, whoſe Honour and Conſcience would not permit them to abandon their Confederates, and leave them as a Sacrifice to *France*, were puniſh'd by *England* with the Loſs of their Pay and Subſidies, which was all that was in the Power of the Miniſtry to do, to ſhew their Reſentment at this great Diſappointment to the Meaſures of *France*.

This March of Prince *Eugene* Lord *Strafford* thought might be turn'd upon them, and he prevail'd with the Duke of *Ormond* in a Meſſage to Prince *Eugene* to ſay, his Marching without Concert with us, and all the Queen's Auxiliaries marching from us, expos'd us ſo, that we have been oblig'd to ſend to the *French* to declare with us a Ceſſation of Arms; nothing leſs could put the Queen's Troops in Safety; for though Matters fell out ſo pat, without this we muſt have declar'd for the Ceſſation, yet why ſhould we not turn all this Matter upon them?

The Committee had not thought it worth their while to take Notice of ſuch an idle Attempt to impoſe upon the Senſes of Mankind, if they had not been induc'd by another Paſſage in the ſame Letter to think it deſerv'd ſome Obſervation; where Lord *Strafford* giving an Account of what paſs'd upon the Separation ſays, All the *Engliſh* ſeem rejoyc'd to march off, being weary of the Situation they were in, and the Reproaches they met with in the great Army; There are two or three Faces very ſour, they ſigh and wiſh the *Hanoverians* had not ſeparated from us, but I ſhall tell them perhaps it may be better. He may ſee by this Time the wrong Advice he has follow'd, ſince all muſt lay the Blame of the Separation upon him. But this is not the only Inſtance of the Scorn and Contempt which his Lordſhip was ready to expreſs upon the like Occaſions; for *July* the 16th, 1712, giving an Account of a Converſation with Monſieur *Bulow*, the Elector of *Hanover's* General, wherein his Lordſhip declar'd, that the Queen had yet neither made Peace nor Truce, which Declaration was made near a Month after the Articles for a Suſpenſion of Arms were ſign'd, and his Lordſhip repreſenting the great Dangers the Queen's Troops were expos'd to by being left alone in their Camp when Prince *Eugene* march'd, and Monſieur *Bulow* replying, in caſe of any Attack they had been ſure of their Aſſiſtance and Protection, his Lordſhip ſays, My Anſwer was in a diſdainful way, it would be a very odd thing, when an Elector of the Empire ſhould be a ſufficient Protection to *Great Britain*; and *December* the 14th, 1712, Lord *Strafford* in his Letter to Mr. *St. John* ſays, Count *Zinzendorf* own'd, it was impoſſible to carry on the War alone, eſpecially ſince the Elector of *Hanover*, who was the greateſt Hero for the War, has threatned the States to recall his Troops, if they did not pay him the Queen's Share of the Subſidies;—— In ſhort, Count *Zinzendorf* himſelf could not but laugh at the ridiculous way of proceeding of that Court.

The Armies being now ſeparated, and the Suſpenſion of Arms declar'd, your Committee think it neceſſary to recapitulate in what manner, and by what Steps, this fatal Ceſſation was procur'd.

That it was of infinite Advantage and abſolutely Neceſſary to the Affairs of *France*, and therefore inſiſted on by *France* is very evident; and it is as certain, that the *Engliſh* Miniſtry gave early into it, if they were not the firſt Adviſers of it; for which no other Account need be requir'd, but that as all their Meaſures tended to advance the Intereſt of the Queen's Enemies, they could not fail to be zealous in a point which contributed more to thoſe Views than any one Occurrence during the whole Negotiation; but as they all along wanted Appearances, and conſulted them more than any real Advantages to the Kingdom, they thought it neceſſary to annex

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ſome Conditions to this important Article, that might paſs upon the deluded People as a Juſtification of this unprecedented Treachery.

The Demolition of *Dunkirk* was always ſo popular a Point, that nothing could ſtrike the Imaginations of the People more, than to be told that this important Place was deliver'd into the Queen's Poſſeſſion: This Step they thought well improv'd, would recommend the Peace itſelf, at leaſt juſtifie the Ceſſation. And as the Nation had Nothing more at Heart, than the Diſpoſition of the *Spaniſh* Monarchy after the Renunciation had been induſtriouſly cry'd up, and the Queen had declar'd from the Throne, that *France* and *Spain* were thereby more effectually divided than ever, Theſe Two Articles were made the eſſential Conditions of granting a Ceſſation of Arms: For the latter, *France* eaſily conſented to it, having declar'd it to be null and void by the fundamental Laws of *France*: For the firſt, 'tis evident how unwillingly *France* was brought to ſurrender *Dunkirk*, but this the Miniſtry were reſolv'd to purchaſe at any Rate, as what would moſt eaſily amuſe, and ſenſibly affect the Nation; and therefore to obtain this, they engage not only to grant a Ceſſation of Arms, but to conclude a Separate Peace.

The Proſpect of concluding a Separate Peace, and the obtaining immediately a Ceſſation of Arms, which anſwer'd all the Purpoſes of *France* almoſt as well as a Separate Peace, by leaving the whole Confederacy in their Power, and at their Mercy, were ſo great Temptations to *France*, that the Surrender of *Dunkirk* is agreed to; but if we come to conſider what *England* gain'd by granting this fatal Ceſſation, we ſhall find the Demolition of *Dunkirk* ſupply'd by a new Canal more beneficial to *France*, and formidable to the Navigation of *Great Britain*, than *Dunkirk* ever was; and for the Renunciation, We were told by *France*, we ſhould deceive our ſelves if we accepted it as an Expedient to prevent the Union of the two Monarchies.

Your Committee cannot cloſe their Obſervations upon this memorable Campaign of 1712, without inſerting another Letter that was wrote by the Duke of *Ormond* to my Lord *Bolingbroke*. The *Dutch* it ſeems, encourag'd by the Succeſs of their Enterpriſe upon Fort *Knocque*, had form'd a Deſign for ſurpriſing *Newport* or *Furnes*, which his Grace having Intelligence of, thought proper to write the following Letter, *October* the 21ſt, 1712, to my Lord *Bolingbroke*.

'I take this Opportunity of an Expreſs which brought me ſome Letters 'this Morning from *Oſtend*, and is returning thither, to acquaint your Lordſhip 'with an Affair which has been communicated to me by a Perſon who is 'very well enclin'd to her Majeſty's Service; your Lordſhip will beſt judge 'of the Importance of it, and the Uſe that is to be made of it, when I tell 'you, that the Succeſs of the Enterpriſe upon *Knocque* has encourag'd the 'forming a Project for ſurpriſing *Newport* or *Furnes*, and that the fortifying '*Dixmude* is made uſe of as a Pretence for drawing together a Body of Troops 'ſufficient to put the Deſign in Execution; if it be thought more for her Ma'jeſties Service to prevent it, I am humbly of Opinion ſome Means ſhould 'be found to give Advice of it to Mareſchal *Villars*, who may poſſibly 'think we owe him that good Office, in Requital of ſome Informations your 'Lordſhip knows he has given me, with a Deſign to ſerve her Majeſty and 'the Nation: I am not yet at Liberty to acquaint your Lordſhip with the 'Name of my Author, who deſires the whole Matter may be manag'd with 'the greateſt Secrecy, which is a Caution I know I need only mention to your 'Lordſhip.

The great Step of the Ceſſation was no ſooner taken, the Suſpenſion declar'd, and *Dunkirk* deliver'd up, but Monſieur *de Torcy* calls upon Mr. *St. John* to perform his Promiſe of concluding a Peace between *France* and *Great Britain* in a few Weeks, which he thinks can meet with no Difficulties, all the Conditions of Peace with *England* being regulated, and the Intentions of the King touching the General Peace known to, and he thinks he may ſay approv'd by, her *Britannick* Majeſty. Monſieur *de Torcy* then propoſes the Method of regulating the Suſpenſion by Sea, and inſiſts, that during the Suſpenſion, either General or Particular, the Tranſportation of neither Troops, Ammunition, nor Proviſions, ſhall be allow'd into *Portugal*, *Catalonia*, or any other Place where the War continues. Pacquet-Boats between *Dover* and *Calais* are to be immediately ſettled for the general Eaſe of Correſpondence, and the

Suſpenſion of Arms to be publiſh'd in *Portugal* and *Catalonia*, without waiting 'till it ſhall be ſettled at *Utrecht*.

All theſe Propoſals from *France* are very readily aſſented to, and Mr. *St. John* thinks the Queen in a Condition not to loſe a Moment's Time in concluding with the Miniſters of *France* the Convention for a general Suſpenſion of Arms, both by Sea and Land, and even the Treaty of Peace between *Great Britain* and *France*.

Mr. *St. John* then opens to him the Meaſures that had been here concerted for the Duke of *Savoy*; 'Of all the Allies, ſays he, there is none whoſe Intereſt the Queen has ſo much at Heart as the Duke of *Savoy's*: He hopes 'the Moſt Chriſtian King will act in Concert with her Majeſty, and omit 'Nothing that may engage his Royal Highneſs to come into all our Meaſures, 'and that may protect him from the Inſults of the Imperialiſts for ſo doing; 'and among other Advantages propos'd for him, he lays it down as a Prin-'ciple, that it is neither for the Intereſt of *Great Britain* nor *France*, that the 'Kingdom of *Sicily* ſhould be given to the Houſe of *Auſtria*, and therefore 'demands it for the Duke of *Savoy*, and declares the Queen will not deſiſt 'from this Demand.

This Concern of the *Britiſh* Miniſters for the Duke of *Savoy*, who is repreſented as the Ally, whoſe Intereſt the Queen hath moſt at Heart, your Committee is at a Loſs to account for. The *French*, as appears by a Letter of the Biſhop of *Briſtol* to Mr. *St. John*, of the 26th of *April*, 1712, had actually offer'd *Sicily* to the Emperor. The Duke of *Savoy* himſelf did not reliſh this Propoſition, as appears by Lord *Peterborough's* Letter to Mr. *St. John* of the 24th of *September*, 1712, in which his Lordſhip repreſents the Duke of *Savoy* expreſſing, That he was not ſo vainly impatient of the Title of King, as to loſe or hazard any real Intereſt for an empty Name, but that he thought it much more extraordinary, that a Prince beaten Ten Years together by his Enemies, ſhould remain at laſt with the Prize contended for, and which ſo often by Parliament had been declared the juſt and unavoidable Motive of the War: Again in Lord *Peterborough's* Letter of *November* the 16th, 1712, to Mr. *St. John*, he affirm'd, That Nothing can repreſent the Uneaſineſs of Mind of the Duke of *Savoy*, after theſe Offers had been made him: To calm this Uneaſineſs, and to fix his Royal Highneſs in the Meaſures of the Miniſtry, it was neceſſary the Lord *Peterborough* ſhould in a Memorial given to him repreſent, That his Royal Highneſs in refuſing theſe Offers muſt fall out with the Queen, and the *Engliſh* Miniſters, whom his Lordſhip endeavours to excuſe from the Reproaches caſt directly upon them, as if they were Perſons devoted to *France*. That for the Support of what was propos'd, a ſufficient Fleet ſhould be furniſh'd either by *England*, or *France*, or by both Powers jointly, and that his Royal Highneſs ſhould be guarantee'd and protected againſt any Power that ſhould oppoſe this Project, or ſhould inſult him for having accepted theſe Offers. The Arguments of the *Engliſh* Miniſters did at length prevail with his Royal Highneſs; and if the View of the ſaid Miniſters was effectually to diſable the Emperor from ſupporting himſelf againſt *France* after our Separation, by forcing into the Intereſt of *France* an Ally ſo conſiderable as the Duke of *Savoy*, it muſt be confeſs'd theſe Meaſures were extremely well calculated for ſuch an End, but it does not appear to your Committee how *England* came to be ſo far concern'd in this Matter as to offer its Guarantee for *Sicily*, which naturally muſt have engaged us in a War againſt the Emperor. This Forwardneſs of the Miniſtry in offering to make *England* Guarantee for Conditions advantageous only to *France*, ſeems the more extraordinary, when they obſerve, that, during the whole Courſe of this Negotiation, they find no Endeavours us'd to procure a Guarantee of our Confederates to ſecure the Proteſtant Succeſſion, which had been addreſs'd for by both Houſes of Parliament; nor do they obſerve, that the King of *Sicily*, for whom ſo much was done, was ever requeſted to be Guarantee for the ſaid Succeſſion.

The dreadful Conſequences of the Separation of the Armies were now ſenſibly felt in the unfortunate Action at *Denain*, where Mareſchal *Villars* on the 24th of *July*, *N. S.* attack'd Lord *Albemarle's* Camp which he forc'd, took him Priſoner, and entirely defeated all the Troops under his Command: M. *de Torcy* immediately ſends an Account to Mr. *St. John* of this agreeable News, and ſays, 'The King of *France* is perſuaded, that the Advantage, which his

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'Troops have obtain'd, will give the Queen ſo much the more Pleaſure, as 'it may be a new Motive to overcome the Obſtinacy of the Enemies to Peace.

Your Committee could not with Patience read a Letter from a Miniſter of *France*, declaring to the Secretary of State of *England*, That a Victory obtain'd by the Queen's Enemies over Her good Allies, muſt be a Pleaſure or Satisfaction to Her Majeſty. But at that time the *French* thought themſelves ſo ſure of the *Britiſh* Miniſtry, that they depend upon their Aſſiſtance to puſh this Advantage againſt the Confederates ſtill further; and Monſ. *de Torcy* ſays, he hopes the Queen will effectually bring them to Reaſon in agreeing immediately with the King, the laſt Meaſures that are to be taken for finiſhing this Work. She has the Means in Her own Hands, if She will make uſe of *Ghent* and *Bruges*, which Her Troops poſſeſs, and eſpecially of *Ghent*; for it depends upon whoſoever is Maſter of that Place, to make all the Deſigns of the Enemies Generals miſcarry, and to give Law to the *Dutch*.

Neither was Monſ. *de Torcy* ſingular in his Opinion about the Action at *Denain*; Mareſchal *Villars* would not loſe a Moment in giving the Duke of *Ormond* an Account of this News; he aſcribes the Victory to the Separation of the brave *Engliſh*, and inſults the Allies as common Enemies, that muſt now be ſenſible what wrong Meaſures they had taken. In this Manner, and to this Effect, Mareſchal *Villars* thinks proper to write to the Duke of *Ormond*; and at the ſame time the Mareſchal deſires his Grace to tranſmit this Account to the *French* Plenipotentiaries at *Utrecht*, and to make a thouſand Compliments from him to Ld. *Strafford*.

And that there might be no Part of the World where it was in the Power of the *Engliſh* Miniſtry to aſſiſt their new Friends the *French*, at the Expence of their old Allies, Monſ. *de Torcy* further propoſes, That the Queen ſhould put a Stop to Count *Staremberg*'s Projects in *Catalonia*, by ſending Orders to Her Troops in *Terragna* not to let the *Germans* into that Place; and not content with being aided and aſſiſted all that was poſſible by Land, he further deſires that expreſs Orders might be ſent (and thorough *France*, as the ſhorteſt Way) to the *Engliſh* Men of War that were then cruiſing in the *Mediterranean*, to ſuffer the *French* Ships that were then returning from the *Levant*, to paſs unmoleſted; which was no ſooner ask'd than comply'd with.

But the taking Poſſeſſion of *Ghent* and *Bruges* was not only the Deſire of Monſ. *de Torcy*, but was ſupported by the Advice of the E. of *Strafford*; who in his Letter to Mr. *St. John* of the 17th of *July* 1712. ſays, 'I am for having the D. of '*Ormond* ſend ſome Party on purpoſe to march through ſome of their Towns, to 'ſee whether or no they would refuſe them Paſſage; if they did, that might au-'thorize us the more to do a Thing very agreeable to the Queen's Troops, and 'what I believe you would approve of.' His Lordſhip adds, 'He (meaning 'the D. of *Ormond*) is very hearty in every thing, but really is under Difficulties 'with thoſe about him; thoſe that are able, are not yet entirely to be rely'd up-'on, and thoſe that might be truſted, are not capable of giving Advice.

And that there might be no Doubt of his Lordſhip's Meaning in what he had before adviſ'd, *July* the 21ſt, he tells Mr. *St. John*, 'The Meaſures I mention'd 'would not be diſagreeable to you, was that of marching to *Ghent*, which we 'have now ſo well executed that we are within two Days March of it, and the '*Engliſh* are entire Maſters of the Citadel, as likewiſe of all the Gates of the 'Town, and have Orders to be upon their Guard; not to let themſelves be 'ſurpriz'd by two Battalions, one of *Dutch* and one of *Walloons* in the Town, 'nor any Troops ſent from any other Place. This is a *Coup de Parti* for the 'States who did not expect it, elſe they would not have behaved themſelves 'with the *Hauteur* they lately did; the Thing was ſo well and ſecretly ma-'nag'd, that all Preparations were made to march about to *Warneton* between '*Liſle* and *Ipres*, to have liv'd upon the *French* Country, and 'till we had 'march'd a Day's March on this Side the *Scarp*, the *Dutch* and their Friends 'did not perceive our Deſign, which as ſoon as they did, their Surpriſe and 'Uneaſineſs were equally great.

The Duke of *Ormond* having given an Account of his Marching his Army towards *Ghent* and *Bruges*, Lord *Bolingbroke* commends his Conduct, and tells him the Methods he had purſued were ſo well adapted to the preſent Conjuncture of Affairs, that they anſwer in every Point what they would have wiſh'd: That the News of *Dunkirk* could not have been follow'd by any more agreeable than that of his Grace's having directed his March towards *Ghent*.

And on the 22d of *July*, O. S. his Lordſhip tells his Grace, That taking Poſſeſſion of *Ghent* and *Bruges* had improv'd Her Majeſty's Views, which he is order'd to ſecure in the beſt manner he was able, and doubts not but it will have a good Effect upon the Conduct of the Allies.

On the 17th of *July*, O. S. in a Letter to Monſ. *de Torcy*, Lord *Bolingbroke* recapitulates what he ſaid before concerning the D. of *Savoy*; and as a farther Motive to induce *France* to comply with his Demands, he repreſents that it will be very important to have his Concurrence both in the Suſpenſion of Arms, and the Treaty of Peace, which in all probability will be made between *Britain*, *France* and *Spain*, without the Intervention of the other Allies; and that *Savoy*'s declaring for us will be a deciſive Stroke, and the more neceſſary becauſe the King of *Pruſſia*'s Conduct has not anſwer'd the Queen's Expectations.

Before this Letter was diſpatch'd, the Lord *Bolingbroke* receives Monſ. *de Torcy*'s of the 26th, *N. S.* In anſwer to which, *July* the 18th, *O. S.* he inſiſts further in behalf of the Duke of *Savoy*, tells him with great Satisfaction, That the Duke of *Ormond* was poſſeſs'd of *Ghent* and *Bruges*, and had Orders to be upon his Guard, and ſecure thoſe Poſts; and as the Queen embrac'd with a great deal of Satisfaction every Opportunity that offer'd to do the King a Pleaſure, poſitive Orders are ſent to Admiral *Jennings* to ſuffer the *French* Ships coming from the *Levant*, to paſs freely.

It is almoſt incredible that the *Engliſh* Miniſtry however determin'd they were to give up the Honour of the Queen, and Intereſt of their Country, in following the Dictates of *France*, ſhould venture to do it in this open Manner. All that had been hitherto declar'd, was a Suſpenſion of Arms in *Flanders*, and that our Troops were to act no longer againſt *France*: But here by the Advice of the Earl of *Straffford*, at the Deſire of Monſ. *de Torcy*, they are to keep Poſſeſſion of *Ghent* and *Bruges* in order to diſappoint the Deſigns of the Enemies of *France*, and the Allies of the Queen; and altho' the Suſpenſion of Arms extended as yet no further than to the two Armies in *Flanders*, and the general Suſpenſion by Sea and Land was not ſign'd till the 19th of *Auguſt*, *N. S.* the Lord *Bolingbroke* on the 18th of *July*, *O. S.* declares he had then ſent very poſitive Orders to the Queen's Admiral not to intercept the *French* Fleet coming from the *Levant*.

Theſe conſtant Compliances in the *Engliſh* Miniſtry encourag'd Monſ. *de Torcy* to believe they would now ſtick at nothing that could be propos'd. He preſſes again the concluding the Separate Peace between *England* and *France*, as what they both agreed in to be the moſt effectual Way to make the reſt of the Allies comply. He deſires that the Troops in *Flanders* under the Command of the D. of *Ormond*, may be left there to make a good Uſe of the Towns which he was in Poſſeſſion of; but as the King of *France* could not conſent to the D. of *Savoy*'s having *Sicily* except the Elector of *Bavaria* has alſo the *Netherlands* beſides his Electorate, he thinks the Queen's having a good Army in *Flanders* under the Command of the D. of *Ormond*, may render this very practicable; and as the Queen has done a great deal for her own ungrateful Allies, it will be for Her Glory now to contribute to the Good of a Prince of ſo much Merit as the Elector of *Bavaria*, whoſe Acknowledgments will be equal to the Benefits he ſhall receive.

But this would not paſs even upon the Miniſtry of *Great Britain*: The giving *Flanders* to the Elector of *Bavaria*, was not only contrary to all the Propoſitions of Peace that had been made and paſs'd between *England* and *France*, but was what would abſolutely engage us in a new War to oblige the *Imperialiſts* and *Dutch* to agree to it; and they could not think it for the Honour or Intereſt of the Queen to make War upon Her Allies, as ungrateful as they had been, in Favour of the Elector of *Bavaria*; and eſpecially conſidering, that altho' we could ſecure *Ghent* and *Bruges* for him, the Allies had yet an Army in *Flanders* ſo conſiderable both for the Number and Goodneſs of their Troops, that they were able to defend the Conqueſts they had made. And to give him *Sicily*, which was likewiſe demanded, L. *Bolingbroke* hopes it will not be inſiſted on, becauſe it might be the occaſion of continual Jealouſies; it might in particular be the Source of Diſputes and Quarrels betwixt *England* and *France*, whoſe ſtrict Union and indiſſoluble Friendſhip were the Points in view to which all our Meaſures had been directed for ſo long a time. The Queen's Miniſters think when the King of *France* has made all reaſonable Efforts for His Allies, he muſt do ſomething for the Love of Peace, and that a particular Intereſt ſhould yield to the general. 'You cannot, ſays my 'L. *Bolingbroke*, but feel the Force of this Argument, becauſe you are not at all 'ignorant that this Negotiation was begun and carried on upon a Suppoſition,

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'that the Queen muſt deſiſt from many Conditions, which in rigour She was oblig'd 'to procure for Her Allies.' He very ſtrongly urges the Neceſſity of concluding immediately the Peace between *England*, *France* and *Spain*; but abſolutely inſiſts upon *Sicily* for the Duke of *Savoy*.

But altho' this Negotiation was carry'd on upon a Suppoſition, That the Queen was to depart from ſeveral Things, which in Juſtice ought to have been procur'd for Her Allies, [a] the King of *France* thought himſelf under no ſuch Obligation; His Honour to an Ally, whoſe Fidelity was without Reproach, was not to be diſpens'd with; and therefore to ſatisfy his Engagements to ſo good an Ally, was a Point from which the K. of *France* would never depart. But to ſhew the King's good Diſpoſitions to the Peace, he at laſt conſents to the D. of *Savoy*'s having *Sicily* upon certain Conditions; wherein very ample Proviſion is made for Satisfaction to the Elector of *Bavaria*; and one expreſs Condition is, That a Peace be concluded between *England*, *France*, *Spain* and *Savoy*.

In anſwer to this Letter, [b] Lord *Bolingbroke* acquaints Monſ. *de Torcy*, That he had receiv'd the Queen's Orders to go immediately to *France*, and he hop'd under the Auſpices of the Abbot *Gaultier* in a Week's time to ſalute him at *Fontainbleau*.

Whilſt theſe great Points were tranſacting, and carrying on directly betwixt *France* and *England*, it is not to be ſuppos'd, that any Thing very material paſs'd at *Utrecht*; ſome few Paſſages only concerning ſuch Communications as were thought neceſſary to be made to keep up the Form of a Negotiation, may not be improperly taken notice of.

The Advice of the D. of *Ormond*'s Orders to engage in neither Siege or Battel, gave great Alarm: the States deſire the *Britiſh* Miniſters to give them ſome Satisfaction concerning a Matter wherein they thought Religion, Liberty, and all that is valuable, was ſo nearly concern'd: To which they could obtain nothing but very general Anſwers. Upon which they expreſſing their Diſcontent to be kept entirely in the Dark, without the leaſt Knowledge of what was done or intended to be done, the [c] Biſhop took that Opportunity to put an End to their Curioſity by executing the Orders before-mentioned, That the Queen thought Herſelf now under no Obligation whatſoever to the States.

This Declaration is grounded upon the Behaviour of the States; but it muſt be remembred, that this Order is dated very few Days after the Orders to the D. of *Ormond* not to engage in Siege or Battel. And in the ſame Letter the B. of *Briſtol*, giving an Account of a Conference between his Lordſhip and Mr. *Consbruck*, the Emperor's Miniſter, the Biſhop ſays, 'He was very deſirous to know, and I was as unable to inform 'him of the Particulars wherein the Care of the Emperor's Intereſt did conſiſt.

The *Dutch* did likewiſe ſend an Expreſs to their Miniſter at *London*, with a long and moſt moving Letter to the Queen, to remonſtrate againſt this Proceeding, *N°* (36.) but he could obtain no Anſwer at all; [d] 'Mr. *St. John* thought the Queen intending 'that Week to lay before the Parliament the Plan of the Peace, the Proceedings of the 'Two Houſes on that Occaſion, would be a more ſeaſonable as well as a more deciſive 'Anſwer to the States than any he could return.

The Queen having communicated to the Parliament how far the *French* are already come, in their Propoſals for ſettling a General Peace, the [e] B. of *Briſtol* is directed to diſcourſe with the Miniſters of the ſeveral Allies as ſoon as poſſible, agreeable to the Plan contain'd in Her Majeſty's Speech; but before his Lordſhip makes this Step, Mr. *St. John* tells him, It will be proper that he ſpeaks firſt with the *French* Plenipotentiaries upon this Subject, and enquire of them whether they will be willing, and in what Manner they will be willing to give this Communication to the Allies: But the [f] B. of *Briſtol* gives an Account on the 28th of *June*, *N. S.* [g] That the *French* Plenipotentiaries declar'd they had no ſuch Orders, and without them they could not do it: And the Biſhop finding it might be of ſome Service, and that it was look'd upon at the *Hague* as a Step that might facilitate the Suſpenſion of Hoſtilities, his Lordſhip did again preſs the *French* Miniſters to know, whether they were willing to declare in a ſolemn Conference, that the Particulars declar'd in the Queen's Speech are the King their Maſter's Offers to the Allies, and that he will make them good in the Negotiation. The *French* again refus'd to make any ſuch Declaration; and in this Opinion they perſiſted even after the *Dutch* Miniſters conſented to accept the Contents of [h] Her Majeſty's Speech *pro materiâ tractandi*, if the *French* would at the ſame time acknowledge them to be their Maſter's Offers, and negotiate upon them in order to make them good. But the *French* Plenipotentiaries were ſo far from agreeing to this, that they demanded of our Miniſters to know the Queen's Mind upon the ſeveral Parts of the laſt general Plan brought over by Monſ. *Gaultier*, and which are not explain'd in Her Majeſty's Speech; ſaying, Their King expected it, and they do not know how to

proceed

I

[a] *Aug.* 4. *N. S. Vol.* 8. *f.* 700. [b] *Vol* 8. *f.* 712. [c] *June* 3. *N. S. Vol.* 3. *f.* 7. [d] *June* 3. *O. S. Vol.* 3. *f.* 19. [e] *June* 11. *Vol.* 3. *f.* 47. [f] *Vol.* 3. *f.* 79. [g] *July* 12. *Vol.* 3. *f.* 203. [h] *Aug.* 12. *Vol.* 3. *f.* 401.

proceed till those Points be ſtated; and the utmoſt they were to be brought to, was, that it was not to be underſtood to exclude their Maſter from making ſome Demands for the E. of *Bavaria*, and that *Liſle* was to be reſtor'd over and above the two or three Places excepted in the Queen's Speech. Theſe Paſſages are here mention'd as falling in, in point of Time, but will be more properly conſider'd afterwards.

At the ſame time that Mr. *St. John* communicated the Queen's Speech to the B. of *Briſtol*, he orders him to let the *Dutch* Miniſters know, That the Queen thinks a Suſpenſion of Arms, at leaſt in the *Netherlands*, to be abſolutely neceſſary. And here your Committee muſt obſerve, that theſe Orders to propoſe to the States a Suſpenſion, are dated *June* 11th, *O.S.* which was the very Day the Articles for a Suſpenſion were ſign'd by M. *de Torcy*, and had been ſign'd by L. *Bolingbroke* five Days before.

In ſeveral Letters that follow'd from the B. of *Briſtol*, [a] 'He gives an Account of the 'general Diſſatisfaction of all the Allies, and the inexpreſſible Conſternation they were 'all in; that they repreſented our Proceedings as the unavoidable Ruin of *Europe*; 'Religion, Liberty, the Faith of Treaties, are urg'd to ſhow the Enormity of our U'ſage: His Lordſhip does not know what he may expect from the unmeaſurable Rage 'of the People, nor where it will end; [b] that the *Dutch* ſeem to be uneaſy on no ac'count ſo much, as that they cannot come to the Knowledge of what is to be their 'Lot: Their Concern is chiefly, that they cannot know the Particulars of what is de'ſign'd for them, eſpecially [c] what Species are to be excepted out of the *Tariff* of 1664. 'and what Towns out of the Barrier. On which Occaſion the B. of *Briſtol* did, as with 'the greateſt Truth, aſſure them, That he knew nothing either of the one, or the other.

But the Reception that theſe Repreſentations met, ſeems to your Committee as unaccountable as any Thing that happened: [d] Mr. *St. John*, *June* the 20th, *O.S.* ſays, 'They are not ſurpriz'd at the Clamours and Rage of the *Dutch*, which they foreſaw 'and were prepar'd for: It is certain we run great Hazards, but it is as certain their 'unaccountable Folly is the Occaſion of it: He cannot imagine the Biſhop ſhould be 'in any Danger, his Character is ſacred in a double Manner; and beſides, I have rea'ſon to think that tho' they kick and flounce like wild Beaſts caught in a Toil, yet the 'Cords are too ſtrong for them to break; they will ſoon tire with ſtruggling, and 'when they are tir'd grow tame.

This is the Treatment and Language which the Queen's Secretary thinks fit to beſtow upon Her Allies: Their deſiring to have ſome Satisfaction in what moſt nearly concern'd them, is call'd unaccountable Folly, that had drawn all theſe Miſchiefs upon them; and if any Reſentment is ſhown, they are wild Beaſts; but the Cords of the Toils which *England* and *France* had caught them in, were too ſtrong for them to break. But L. *Strafford* is not content with hard Words only, '[e] He is glad that 'Orders were given to ſtop the Pay of the Foreigners, of which they complain hor'ribly, but it will make them humble and ſharp; handling does better with theſe 'People, than the beſt Words.

On the 24th of *June*, *O. S.* [f] Mr. *St. John* writes a long Letter to the Lord Privy-Seal, and inſtructs him to lay the entire Blame of all that has happen'd, upon the *Dutch*; and that the Want of Concert, is only to be imputed to thoſe who are at the head of Affairs in *Holland*; however, that Her Majeſty is ſtill ready for their Sakes, and for the Sake of the Common Intereſt of *Europe*, to forget all that is paſt, and to join with them in the ſtricteſt Terms of Amity and Confidence. This Farce was ſtill to be carry'd on in *Holland*, and theſe Profeſſions made in the Name of the Queen, when it is notorious that four Days before, on *June* the 20th, *O.S.* Mr. *St John* had in the ſtrongeſt Terms promis'd in the Queen's Name to Monſ. *de Torcy*, to conclude a Separate Peace with *France* on Condition *Dunkirk* was deliver'd to the *Engliſh*; and that this Offer of a Separate Peace made by *England*, aroſe from the *French*'s refuſing to deliver *Dunkirk* upon the Conditions firſt agreed upon, although at the ſame time the Queen's Plenipotentiaries are directed in a moſt publick Manner to lay the Blame of all our Meaſures at the door of the States General.

But whatever Meaſures were carrying on elſewhere, and altho' in all the Letters that paſs'd upon that Subject between L. *Bolingbroke* and Monſ. *de Torcy*, the concluding a Separate Peace is treated as a Thing ſettled on both Sides; the Plenipotentiaries at *Utrecht* are order'd to proceed upon another foot; and in a [g] Letter from L. *Bolingbroke* of *July* the 16th, *O. S.* to the Plenipotentiaries jointly, upon a Suppoſition, that L. *Strafford* was then got back again to *Utrecht*, they are ordered to loſe no Time in ſettling the Conventions for a Suſpenſion of Arms between *Great Britain* and *France*, both by Sea and Land; and when that is brought to Perfection, to call upon the Allies to enter again upon the Negotiations on the Foundation of the Plan laid down in the Queen's Speech; and it is deſired their Lordſhips will appear ſolici-

tous

[a] *June* 28. *Vol.* 3. *f.* 79. [b] *June* 17. *Vol.* 3. *f.* 71. [c] *July* 1. *Vol.* 3. *f.* 139. [d] *Vol.* 3. *f.* 95. [e] *July* 9. *Vol.* 3 *f.* 199. [f] *Vol.* 3. *f.* 143. [g] *Vol.* 3. *f.* 323.

tous in this Matter, and affect to be the Aggreſſors, and to preſs the Allies to give in Categorical Anſwers. By this means the Negotiations were ſeemingly ſet on foot again; and whether the Allies did or did not comply, our Miniſtry were ready to make their uſe of it either way; if they did comply, the Scandal of a Separate Peace would be avoided; if they did not, the Blame was to be imputed to their Obſtinacy.

The Treaty being left upon this Foot at *Utrecht*, with a poſſibility of being carried on or dropt, as ſhould be found convenient, and the King of *France* having, as was before obſerv'd by M. *de Torcy*'s Letter of *Auguſt* the 4th, N. S. conſented to the Demands made by *England* on Behalf of the Duke of *Savoy*, but among Others upon theſe two expreſs Conditions, That a Suſpenſion of Arms both by Sea and Land be immediately granted, and that a Separate Peace between *England*, *France*, *Spain*, and *Savoy*, be forthwith concluded, it is thought proper and neceſſary, that Lord *Bolingbroke* ſhould go himſelf to *France*, finally to adjuſt and ſettle the great Points in Diſpute.

His Powers and Inſtructions are hereunto annexed, [a] No. (37.)

'The Subſtance of his Inſtructions was in ſhort to remove all Difficulties and Differences that might obſtruct the general Suſpenſion of Arms between *England* and *France* from taking Place, or ſettling the Treaty of Peace in ſuch a Courſe, as may bring it to a happy and ſpeedy Concluſion. But to declare, that he does not imagine there will be any poſſibility to prevail with the Queen to ſign the Peace with *France* and *Spain*, unleſs full Satisfaction be given to his Royal Highneſs, the Duke of *Savoy*, and unleſs they can take him along with them in the doing thereof. He is therefore to take particular Care to ſettle his Barrier, and to procure *Sicily* for him; to ſettle the Renunciation in ſuch a manner, that there may be as little room left as poſſible for Diſpute or Delay; that the Elector of *Bavaria* may have *Sardinia*, and be reſtor'd to his Dominions in the Empire, except the *Upper Palatinate* and the firſt Electorate; and when he has had Satisfaction in theſe Points, he is to proceed to ſpeak to ſuch Articles as relate particularly to the Intereſt of *Great Britain*, and endeavour to have ſuch of them, as there may appear to be any Doubt concerning, explain'd in the moſt advantageous Manner. And then he is to do his beſt to diſcover upon the ſeveral Parts of the General Plan of Peace, what the real Ultimatum of *France* may be; and when the Peace between *England* and *France* ſhall be ſign'd, that it may be expedient to fix the Allies a Time to come in, wherein the Queen will uſe her good Offices, but will not be under any Obligation to impoſe upon the Allies the Scheme offer'd by *France*, or to debar them from obtaining better Terms for themſelves.

By theſe Inſtructions it appears, that Lord *Bolingbroke* was impower'd to conclude a Separate Peace with *England*, *France*, *Spain*, and *Savoy*; that at this time there was ſome Doubt concerning ſeveral Articles relating to the particular Intereſts of *Great Britain*, which he was to endeavour to get explain'd; but no Inſtruction, if his Endeavours prove ineffectual in Behalf of *Great Britain*, not to conclude the Treaty, which in theſe very Inſtructions is expreſly provided for in Favour of *Savoy*; and his Lordſhip is ordered to do his beſt to diſcover the Ultimatum of *France*, which hitherto it ſeems the Miniſtry were ignorant of; but whether *France* condeſcended ſo far or not, as to let his Lordſhip into this Secret, our Treaty was to be concluded; and the Miniſtry ſeem to think, they had ſufficiently diſcharg'd their Duty in declining to be engag'd to impoſe what Terms *France* ſhould think proper upon the Allies, thoſe Allies to whom the Queen was bound by the Faith of Treaties, and all the moſt ſolemn Engagements and publick Declarations, to procure all juſt and reaſonable Satisfaction, according to their ſeveral Alliances. But now it ſeems ſufficient that we did not debar them from the Liberty of endeavouring to obtain ſtill better Terms for themſelves.

With theſe Inſtructions Lord *Bolingbroke* goes to *France*, and for his Proceedings the Committee referr'd to his Lordſhip's own Account in his [b] Letter to the Earl of *Dartmouth*, *Aug.* 22. *N. S.* 1712, N° (37.) and without entring at preſent into any further Particulars, the Convention for a General Suſpenſion of Arms between *Great Britain* and *France* for four Months was ſign'd at *Paris* by Lord *Bolingbroke* and Monſieur *de Torcy*, *Auguſt* the 22d, *N. S.* 1712, as his Lordſhip ſays, but dated *Auguſt* the 19th, *N. S.* N° (29.)

France was now become entire Maſter of all future Negotiations, and did not fail to make Uſe of the Power that was put into their Hands; an early Inſtance will be ſeen of this in the Affair of *Tournay*: But being now come back to *Utrecht*, it will be neceſſary to mention an Incident that happen'd there, the Diſpute between Count *Rechteren* and Monſieur *Meſnager*; which is taken notice of only as a Pretence that

[a] *Vol* 8. *f.* 716 *and* 720. [b] *Vol.* 3. *f.* 487.

that was made uſe of by the *French* to keep the Negotiations in Suſpence as long as it ſerv'd their purpoſe, and in this *England* concurr'd, as will appear afterwards.

On the 30th of *Auguſt* [a] the *Britiſh* Plenipotentiaries acquaint Lord *Bolingbroke*, that in ſome Diſcourſe with the Miniſters of the Allies they had carried Matters ſo far as to tell them, that tho' her Majeſty will endeavour to promote their Intereſt in a Peace, and obtain for them the beſt Terms that ſhall be poſſible, yet if thoſe Endeavours ſhould not procure more than the Contents of her Majeſty's Speech, or even in ſome Degree fall ſhort of that Plan, the Fault will be entirely theirs, who have render'd Things difficult and uncertain, which otherwiſe would have been eaſie and practicable: And having thus far complied with their late Orders to lay all the Blame upon the Allies, they further inform his Lordſhip, that they had however obtain'd the Conſent of the Miniſters of the Allies to come to a Conference with thoſe of *France* in order to renew the Negotiations; the time to be fix'd between the *Britiſh* and *French* Plenipotentiaries; who meeting to have ſome Diſcourſe previous to the General Conferences, parted without coming to any Concluſion.

The Occaſion of [illegible] Difference, that prevented renewing the Conferences, aroſe upon Propoſ[illegible]de by the *Britiſh* Miniſters in relation to *Tournay*. Their Lordſhips in their [b] Letter of the 2d of *September*, N.S. to Lord *Bolingbroke* ſtate the Caſe in this Manner.

'In her Majeſties Speech it is expreſs'd, That the *Dutch* are to have the entire Barrier as demanded in 1709, except two or three Places at moſt.

'The *French* Miniſters inſiſt, that they muſt have *Liſle* as an Equivalent for *Dunkirk*, 'and that the ſame is not to be underſtood as one of the three Places mentioned in 'the Speech, and conſequently that they muſt, in all, have four of the Places menti-'on'd in the Demands of 1709.

'This to us appears to be altogether inconſiſtent with what her Majeſty has declar'd, 'and we accordingly think it contrary to our Duty to bring on a Conference in 'which ſuch an Explication is to be made.

'The *French* Miniſters on the other Hand have ſhew'd us their Orders, which po-'ſitively require them to inſiſt upon the Reſtitution of *Tournay* as well as *Liſle*; and 'that they can by no means conſent to the Ceſſion of *Maubeuge* or *Condé*.

'The *Britiſh* Miniſters then preſs'd the *French* to ſpeak at firſt in Terms as general, 'as their Propoſal was conceiv'd in; but the *French* thought it neceſſary to be par-'ticular and expreſs in that Point above all others, becauſe they ſhall otherwiſe have 'tied themſelves up, and given the *Dutch* an Advantage.

'The Reſult of this Debate was not to proceed to a Conference 'till this Point 'be determin'd; the *French* inſiſting, that their Orders were ſo plain as neither to need 'or admit any Explication, and the *Britiſh* Miniſters thinking the Matter as plain on 'their Side

'They hope their Zeal for her Majeſty's Honour will be graciouſly approv'd, and 'deſire to be directed what further they are to do in this Matter, which they appre-'hend to be of a deciſive Conſequence, becauſe they find even thoſe among the 'Dutch, who appear to be moſt cordially diſpos'd to ſuch a Peace as may re-eſtabliſh 'a good Harmony between her Majeſty and the States, as abſolutely neceſſary for 'their mutual Preſervation, fully reſolv'd, either to retain *Tournay* and have *Condé* yield-'ed to them, or to take one of theſe two Courſes, either to come into any Terms 'that *France* offers, or to continue the War at all Hazards.

In the ſame Letter our Plenipotentiaries give an Account, that the *French* Miniſters by an Order from their Maſter did inſiſt, that the States-General ſhould in a publick manner diſavow C. *Rechteren* for the Affront done to M. *Meſnager*, and then remove him from the Congreſs, and this Satisfaction to precede any further Negotiation.

'The Language which our Plenipotentiaries had us'd to the Allies is very much approv'd by L. *Bolingbroke*, who ſays they had ſpoke the Sentiments of the Queen's Heart in what they declar'd the 30th of *Auguſt*, N. S. and that if the Allies did fall ſhort of the Plan laid down in the Queen's Speech, the Fault was entirely their own. His Lordſhip ſays, 'ſure it is, that this Plan was nothing more than the Ultimatum 'of what *France* would offer, but he wiſh'd that the Imperial and *Dutch* Policy had 'not render'd it the Ultimatum of what *France* will grant. The ſame general Re-'flection may be applied to the particular Caſe mentioned in your Lordſhip's laſt 'Letter. *France* would have yielded *Tournay*, tho' much againſt the Grain. If *France* 'has now any Advantage, and refuſes flatly to yield what ſhe only begg'd to have 'reſtor'd, the Fault is entirely theirs.

But the Diſpatch of the Plenipotentiaries of the 2d of *September*, relating to *Tournay*, having not yet been conſider'd by the Lords of the Council, his Lordſhip could not

[a] *Vol.* 3. *f.* 464. [b] *Vol.* 3. *f.* 467. [c] *Aug.* 26. *Vol.* 3. *f.* 471.

not give any positive Instructions about it 'till the next Opportunity, but in the mean time recommends to them two Considerations; that the keeping of the *Dutch* in hopes of Her Majesty's good Offices, will prevent them from taking any desperate Resolution; and the *French* insisting to have Count *Rechteren* disavow'd before any further Treaty, will put off for some time the Decision of that great Point.

Lord *Strafford* in the mean time, by his [a] Letters of the 13th and 16th of *September*, N. S. 'represented the States as mightily sunk with their Misfortunes, and not 'knowing well what Measures to take, but that they insisted upon *Tournay* as so essen-'tial to their Barrier, that they actually had none without it; and his Lordship is so 'much of that Opinion, that he wishes they might have *Tournay*, though they were 'forc'd to truck *Ipres* for it; that if he could positively assure them they should have '*Tournay*, he believed they would submit to the Plan of the Queen's Speech.

This Opinion of his Lordship is not very easily to be reconcil'd to what he afterwards wrote to Mr. *Prior* upon this Subject, *October* the 4th, 1711. [b] 'If we had 'a Mind to have *Nick. Frog* sign with us, we might, for he is ready to do it for *Tour-'nay*; which, if we sign together, we can't well refuse him, but I expect you will 'cut that Matter short, and I long to hear from you.

But this Affair of *Tournay* was not so soon settled here, altho' the Difficulty does not seem to be, whether the *French* or *Dutch* were to have it, but in what manner it was to be procur'd for *France*, without a manifest Contradiction to what was said by the Queen in her Speech concerning the Barrier.

L. *Bolingbroke*, *September* the 10th, *O. S.* writes Three Letters upon this Subject to Monsr. *de Torcy*, to Mr. *Prior*, and to the Plenipotentiaries, which being upon an Affair of this Nicety are all annex'd, 'N° (33, 32, 31.)

In the [d] Letter to Monsr. *de Torcy*, 'L. *Bolingbroke* desires him to remember the Pro-'position which was often laid down by him when in *France*, and insisted upon as 'a Fundamental in all their future Proceedings upon the General Peace; that the 'Conduct of the Queen in regard to the Interests of her Allies was in a great mea-'sure determined by their Behaviour; that the violent Measures which they had 'taken to obstruct the Peace had put the Queen in a Condition to make her Peace 'without waiting for their Concurrence, in which Case the Queen would declare 'that she had sign'd the Treaty with *France* and *Spain*, and would propose the Plan 'brought over by Abbot *Gaultier*, and deliver'd the 29th of *April*, 1712, for the Al-'lies to treat upon, and could do no more than by her good Offices, as a common 'Friend to both Parties. But in Case the *Dutch* in particular, or the other Allies, 'should before the Conclusion of her Peace with *France* enter into Concert with 'her Majesty, we should have more Measures to keep with them, the Compassion 'of our People would be mov'd in their Behalf, and the Queen's Ministers be ob-'lig'd to make some Steps, which otherwise they would absolutely refuse to do. 'Upon this Foundation, says L. *Bolingbroke* the King's Ministers seem to exact some-'thing more, when they insist the Queen's Ministers should propose the holding a 'Conference, in which the first Proposition started would appear in some measure 'contrary to what the Queen said in her Speech, touching the Barrier of the States. 'The Point in Dispute between your Plenipotentiaries and ours is not to know, 'whether *Tournay* shall be restor'd to the King, or not? For to obtain that Place, 'it is not necessary that you should begin by making this Specifick Declaration, 'but the Question is, whether the Queen ought formally, and at present, to declare 'that *Tournay* shall be restor'd to *France*? Which would be to consent to the Expla-'nation which your Ministers give to this Article of the Queen's Speech. He then 'says, not to swell my Letter too much, which may already seem tedious, I refer 'my self to what Mr. *Prior* shall have the Honour to explain to you upon this Point, 'and I shall content my self with saying, that as it is not difficult to find a Tempe-'rament, I hope we shall avoid all Things that may occasion a Dispute between 'the Ministers of *Great Britain* and *France*.

'This Temperament is to be found in his Lordship's Letter to Mr. *Prior* of the 'same Day, which his Lordship says is to be look'd upon only as a Letter from 'Harry to *Mat.* and not the Secretary to the Minister. He sends him enclos'd an 'Extract of his Letter to Monsieur *de Torcy*, which, he says, relates to a Matter that 'has given *Lord Treasurer* and himself no small trouble in Cabinet; he likewise 'sends him a Copy of the Plenipotentiaries Dispatch of the 2d of *September* upon the 'same Subject; wherein, as he will observe, their Lordships are very warm about 'the Dispute. He can assure him, we have those here, who are not a jot cooler. His

[a] *Vol.* 3. *f.* 531, *and* 567. [b] *Vol.* 9. *f.* 357. [c] *Vol.* 9. *f.* 245, *and* 249. [d] *Vol.* 3. *f.* 547.

'Lordſhip goes on; the Solution of this Difficulty muſt come from you, which is 'a matter of Management and Appearance, more than of Subſtance.

'The Method of doing it is by making Monſ. *de Torcy* ſenſible of the Propoſition 'ſettled between them in *France*, That the Queen can never do any Thing which 'ſhall look like a direct Reſtraint on Her Allies from demanding what they judge neceſ- 'ſary; but as long as they act the Part which they now do, She can very juſtly be paſ- 'ſive and neuter, as to their Intereſts. This his Lordſhip thinks is Advantage enough 'for *France*, and ſuch a one, fairly ſpeaking, as a Year ago they would have given more 'than *Tournay* to be ſure of. They muſt not therefore preſs us to go further than this, 'nor to do any Thing which may ſeem contradictory to what the Queen deliver'd 'from the Throne.

'In a word, The Uſe which the *French* will make of the unaccountable Obſtinacy 'of the *Dutch*, and the other Allies, may in ſeveral Reſpects, and particularly, for ought 'I know, in the Inſtance of *Tournay*, give them an Opportunity of ſaving and gaining 'more than they could have hop'd for; and the Queen may in the preſent Circum- 'ſtances contribute paſſively to this End, but actively She never can in any Circum- 'ſtances.

His Lordſhip then very plainly gives his Advice how this Matter is to be manag'd in theſe Words; 'I think in my own Opinion, and I believe I ſpeak the Queen's upon this 'Occaſion, it were better the *French* ſhould in the Courſe of the Treaty declare, that 'whatever they intended to have given the *Dutch* when the Queen ſpoke from the 'Throne, their Conduct has been ſuch, and the Situation of Affairs is ſo alter'd, 'that the King is reſolv'd to have *Tournay* reſtor'd to him: I ſay, I believe this were 'better than to expect that we ſhould aſſent to an Expoſition of the Queen's Words, 'by which Her Majeſty would yield the Town up; let the Conferences begin as 'ſoon as they will, I dare ſay Buſineſs will not very ſpeedily be diſpatch'd in them: 'We ſhall go on to ripen every Thing for a Concluſion between us and *Savoy*, and '*France* and *Spain*; and this is the true Point of View which the *French* ought to have 'before their Eyes.

This Scheme being concerted here, and tranſmitted to *France*, L. *Bolingbroke* on the ſame Day writes to the Plenipotentiaries in anſwer to theirs of the 2d of *September*, *N. S.* upon which he had before told them, He could give no Inſtructions till their Letter was conſider'd by the Lords of the Council; neither does his Lordſhip now ſend them any Directions, but enlarges upon the ſame general Topicks of imputing all the Miſ- chiefs that had happen'd, and in particular this Affair of *Tournay*, to the Obſtinacy of the Allies. His Lordſhip obſerves, 'That in the Plan brought over by Abbot *Gaul-* 'tier, the K. of *France* begg'd for *Tournay* rather than inſiſted upon it, but was now en- 'courag'd to refuſe what he only endeavour'd to ſave; and in ſhort, that *France* had 'now gather'd Strength by our Diviſions, and was grown ſanguine enough to make 'that Plan the *Ultimatum* of her Conceſſions, which was at firſt nothing more than the '*Ultimatum* of her Offers; but that the *Dutch* had no Body to blame for all this but 'themſelves.' His Lordſhip adds, 'Her Majeſty is very ſenſible of the Concern you 'expreſs for Her Honour, and will not, you may be ſure, ſuffer Herſelf to be a Party 'to any Thing which may appear contradictory to what She has once advanc'd; and 'altho' perhaps the yielding of *Tournay* might be reconcil'd to the Terms of Her 'Speech, yet ſhould the Queen conſent to this Expoſition of it, ſuch Conſent would 'be almoſt a formal Reſtoration of this Place to *France*; and this, my Lords, is what Her 'Majeſty will avoid: But, I hope, the Solution of this Difficulty will come from *France*; 'and that when they have ſo many other Quarrels to decide, that Court will go back 'from a Meaſure which muſt involve them in a Diſpute with the Queen.

The Committee finds a Paper which is ſaid to be deliver'd among Mr. *Prior*'s looſe Papers, and ſeems to be the Draught of a Letter from Mr. *Prior* to Monſ. *de Torcy*, purſuant to what L. *Bollingbroke* had written to him upon the Subject of *Tournay*; which is in Subſtance the ſame, and almoſt in the very Words of L. *Bollingbroke*'s Letter to Mr. *Prior* of the 10th of *September*, with this Addition, that it begins thus: 'There is more 'Appearance than Subſtance in this Affair that is now under Agitation at *Utrecht*, and 'my *Lord Treaſurer* does not at all doubt but the Court of *France* will find a Remedy.

And his Lordſhip was not miſtaken in his Expectations, for Monſ. *de Torcy* very rea- dily follow'd the Advice that was given by the *Engliſh* Miniſtry; and on the 27th of *September*, *N. S.* ſends to my L. *Bolingbroke* a [a] Declaration to be made by the *French* Ple- nipotentiaries at *Utrecht*, wherein the King's Miniſters are order'd to declare to thoſe of *Great Britain*, That the King did conſent to treat of the Peace upon the Plan laid 'down in the Queen's Speech to Her Parliament; but at the ſame time they were 'to ſay, That the *Dutch* having refus'd to conform to the Sentiments of that Princeſs, having

[a] *Vol. 3. f. 665.*

'having rejected the Suſpenſion of Arms, and given Opportunity to the ſeveral Chan-
'ges in Affairs that had happen'd, it is but juſt that His Majeſty ſhould be recom-
'penc'd for the Expence he has been oblig'd to make during the Courſe of this Cam-
'paign. Upon this Foundation his Majeſty orders his Plenipotentiaries not to ſign
'a Peace but upon Condition, That *Tournay* ſhould be reſtor'd to him beſides the other
'Places which he has demanded, and which he had reaſon to believe the Queen of
'*Great Britain* did deſign to comprehend in Her Speech.

The Original of this Declaration that came from *France*, is in the Secretary's Office, and was ſent by Monſ. *de Torcy* to L. *Bolingbroke*, who tranſmitted a Copy of it to the *Britiſh* Plenipotentiaries; but the Letter of Monſ. *de Torcy*, in which it was inclos'd, does not appear.

This Tranſaction in relation to *Tournay*, ſeems of ſo extraordinary a nature, as to deſerve to be ſet forth in one ſhort View: The Diſpute concerning it aroſe from the *French* Miniſters inſiſting to be very particular and expreſs in demanding the Reſtitution of this Place; which the *Britiſh* Plenipotentiaries conceiving to be inconſiſtent with what the Queen had declar'd, refuſe to open the Conferences until they had further Orders. When this came to be conſider'd in *England*, L. *Bolingbroke* ſays, It occaſion'd great Warmth in the Cabinet-Council; but his Lordſhip inſtead of taking Meaſures for preſerving the Town as Part of the Barrier of the States General, which, as he confeſſes, was ſo intended in the Queen's Speech, propoſes Expedients whereby the Town might be reſtor'd to *France* without the Queen's becoming a Party to a Thing which was contradictory to what She had once advanc'd: And gives his Advice to Monſ. *de Torcy*, by what Management *Tournay* might be ſecur'd to the King of *France*, contrary to the avow'd Senſe of what the Queen had declar'd in Parliament; and altho' *France* had conſented in a Memorial deliver'd by Abbot *Gaultier* ſo early as the 18th of *November* 1711. not to inſiſt upon *Tournay*; and this he does in his private Capacity, and not as Secretary of State: But that his Lordſhip was not ſingle in his Endeavours to aſſiſt *France* upon this Occaſion, appears by the great Trouble that he ſays this Matter had given both him and my *Lord Treaſurer* in the Cabinet; and if any Regard is to be given to [a] Mr. *Prior*'s Paper, my *Lord Treaſurer* muſt certainly have written to Mr. *Prior* upon this Subject, who could otherwiſe have had no ground to ſay, My Lord Treaſurer does not at all doubt but the Court of *France* will find a Remedy: Which is agreeable to what L. *Bolingbroke* ſaid in other Words when this Advice was ſent. The Solution of this Difficulty muſt come from *France*.

What happen'd afterwards in relation to *Tournay*, upon what great Conceſſions made to *France*, together with the advantageous Terms procur'd for the Elector of *Bavaria*, the Meaſures and Councils relating to this Affair were afterwards alter'd, is not material enough to require a long Detail; but nothing leſs than an abſolute Concurrence, without any new Objections or further Demands, was to ſatisfie for the Ceſſion of *Tournay*, and that it was at laſt obtain'd is owing ſolely to the Firmneſs and Reſolution of the States.

The Diſpute between Count *Rechteren* and Monſieur *Meſnager* was ſtill kept on Foot; and tho' it was at laſt left to Her Majeſty to decide upon this Difference. There being ſome Points relating to Commerce, and *North-America*, which are of very great Conſequence to the Intereſt of the Queen's Subjects, and the Honour of this Treaty ſtill to ſettle; [b] Lord *Bolingbroke* thinks it neceſſary, tho' the *Dutch* may be uneaſy that the Affair of the Four Species to be excepted out of the *Tariff* of 1664, ſhould ſtill be kept in Uncertainty; and the *Britiſh* Plenipotentiaries accordingly, to gain Time 'till they could know her Majeſty's Pleaſure, reviv'd the Difference between Count *Rechteren* and Monſ. *Meſnager*; and hope 'tis for her Majeſties Service in this manner to ſtave off the Conferences.

The Correſpondence carried on between *London* and *Utrecht* about this time, relating to the Differences that aroſe concerning the Treaty of Peace, and in particular about Our Commerce, is contain'd chiefly in the Fourth Volume; but as it appears that all the Matters in Queſtion, being reduc'd to as narrow a Compaſs as was poſſible, were finally to be determin'd at *Paris* by the Duke of *Shrewsbury* and Mr. *Prior*, the Committee think it needleſs to enter into all the Orders and Inſtructions, Objections and Anſwers, that went and came to and from *Utrecht*, where there was indeed but little more than the Form of a Negotiation; and conceive that an Account of what paſs'd between *London* and *France* will ſet this whole Matter in a clear Light.

Your Committee think it not improper to take Notice here of a remarkable Paſſage or two, that are found in Lord *Bolingbroke*'s [c] Letters to Mr. *Prior* on the 19th

[a] *Vol.* 9. *f.* 265. [b] *Dec.* 9. 1712. *Vol.* 4. *f.* 49. [c] *Vol.* 9. *f.* 287.

19th of *September*, O. S. L. *Bolingbroke* ſends Mr. *Prior* an Account of ſome Advices they had receiv'd of the Invaſion of the *Leeward-Iſlands* by the *French*.

'This, Dear *Mat.* ſays his Lordſhip, proves a very untoward *Contretemps*; it gives a Theme 'to the Whigs, and ſerves to awaken Paſſions that were almoſt lull'd aſleep. We expected 'that *Caſſart*'s Squadron might be gone to the Coaſt of *Braſil*, or to *Surinam*, but we never ima-'gin'd our Colonies would have been attack'd by him, at the time when we were knit-'ting the Bands of Friendſhip between the two Nations with all poſſible Induſtry. Could 'this ill Opinion of our new Friends have enter'd into our Heads, I do aſſure you he ſhould 'have been accompanied by a Fleet of the Queen's, which would have kept him in Reſpect: 'Compare this Conduct with that of the Queen's, *&c.*' And here follows that Paſſage which has been already mention'd, wherein his Lordſhip declar'd concerning the Order ſent to the Duke of *Ormond*. 'I will not ſay this Order ſav'd their Army from being beat, but I think 'in my Conſcience that it did.

His Lordſhip goes on. 'In a Word we depended ſo much upon the good Underſtanding, 'which we thought eſtabliſh'd, and were ſo earneſt to prevent any thing which might break 'in upon it, that we not only avoided to fortifie our Squadron as we might have done, 'but we alſo neglected to put in Execution ſome Deſigns, which would have annoyed both 'French and *Spaniard*, perhaps more than any that have been effected in the Courſe of this War.

Another Inſtance of his Lordſhip's good Diſpoſition to the *French* Nation is to be found in his [a] Letter to Mr. *Prior* of the 29th of *September*, wherein he ſays, 'I have got at laſt the 'Affair of the *Griffin* compounded, not without very great Difficulty; and tho' the Sum 'paid to the Captors was ſo large as 35000, *l.* the Ship was plainly Prize, and the Paſs ſent 'over hither might have been prov'd to have been numerically one of thoſe I deliver'd at 'Fontain bleau, four Days after the *Griffin* was in Sir *Thomas Hardy*'s Power; tho' *Gualtier* 'was ready to ſwear that he receiv'd it ſome Months before; which part of the Abbot has, 'I confeſs to you, done him no Good in my Opinion. From whence it appears, tho' this 'Paſs was none of them, that Paſſes had been granted ſome Months before the Suſpenſion 'was concluded.

Whilſt the *Engliſh* Miniſtry are doing theſe good Offices to the Subjects of *France*, and taking all Opportunities both publick and private to eſpouſe their Intereſts, your Committee is ſurpriſed at the ill Treatment which *England* receiv'd from *France* at this Time, and at their Backwardneſs in making good the Promiſes and Engagements they were under in ſome Points that moſt nearly concern'd the Intereſts of *Great Britain*.

At the latter End of *October* Mr. *Prior* was ſent into *England*, and by what appears left his Reſidence in *France*, without the Leave or any Orders from the Queen his Miſtreſs; but was ſent over by the King of *France* as a proper Perſon, whom he thought fit to entruſt with the great Secret of prevailing with the Queen by her Credit to obtain what the King demanded for the Elector of *Bavaria*. He brings a Credential Letter from the King of *France* to the Queen, which ſeeming ſomething New of the Kind is here annex'd. N° (38.)

About the Middle of *Novemb.* Mr. *Prior* goes back into *France* with new Inſtructions, [c] wherein the Propoſal of a Neutrality in *Italy* is one of the chiefeſt Articles; and that he might have a perfect Knowledge of the Queen's preſent Reſolutions and Councils in relation to the preſent Treaty of Peace, a Copy of the laſt Inſtructions to the Plenipotentiaries at *Utrecht* is given him, that as Occaſion ſhall require he might act in all Things conformable to the Queen's Intentions therein expreſs'd.

He carries likewiſe a Letter from the Queen to the King of *France*, wherein, among other Things, it is ſaid, That Mr. *Prior* continuing to behave himſelf ſo as that his Conduct may be entirely agreeable to the King of *France*, he does but literally execute the Orders the Queen had given him, and is a Proof of his Duty and Zeal for her Service, [d] N° (39.) After this ſhort Digreſſion, to return back to what was juſt now mention'd, it appears that when the Treaty of Peace was ready to be concluded, the Advantages *Great Britain* was to expect and reap from the Endeavours of the *Britiſh* Miniſtry, to aſſiſt and ſupport the Cauſe of *France*, were in a great Meaſure unſettled and undetermined. *France* began to cavil, and as Lord *Bolingbroke* ſaid, go back from what the King had promiſed the Queen. His Lordſhip cannot be perſuaded, as he tells Mr. *Prior*, '[e] That the *French* act either fairly or wiſely, they preſs 'us to conclude, that they may have others at their Mercy; and at the ſame time they Chicane 'with us concerning the moſt eſſential Article of all our Treaty, and endeavour to elude an 'Agreement made, repeated, confirmed.

The two great Points of Moment in Diſpute, were concerning the Fiſhery at *Newfoundland*, and in what manner the Ceſſion of *Cape-Breton* was to be made; the other was about the Treaty of Commerce.

As to the firſt, it is to be obſerv'd, That in the [f] Queen's Inſtructions to the Duke of *Shrewſbury*, He is directed to propoſe, as the Queen's laſt Reſolution, that She will Conſent to give and yield up to His Moſt Chriſtian Majeſty, the entire Poſſeſſion and Propriety of the Iſland of *Cape Breton*, but with this expreſs Condition, That his ſaid Majeſty ſhall on his Part, in conſideration of the ſame, relinquiſh to Her Majeſty all manner of Right to Fiſhing and drying Fiſh on the Coaſt of *Newfoundland*, or any Part, reſerv'd to his Subjects, by the Article Sign'd at *London* the $\frac{27\ Sept.}{8\ Oct.}$ 1711.

[a] *Vol.* 9 *f.* 319. [b] *Vol.* 9. *f.* 357. [c] *Vol.* 9. *f.* 381. [d] *Vol.* 9. *f.* 373. [e] *Vol.* 9. *f.* 657. [f] *Vol.* 9. *f.* 421.

Several Repreſentations were ſent backward and forward, ſhewing the fatal Conſequences of what was demanded by *France*; and although my Lord *Bolingbroke* in his Letter to Mr. *Prior* of the 19*th* of *January* 1712-13. inſiſted, that the Queen had never yielded what *France* pretended to, which then remained an unſurmountable Difficulty; yet in his Letter to the Duke of *Shrewsbury* of the ſame Date he tells His Grace, if the *French* cloſe with the Overture he then made them, with regard to the Diſputes concerning Commerce, "Her Majeſty is willing to accept the laſt Expedient propoſed by *Monſieur de Torcy*, for adjuſting our Differences about *North America*, and to conſent that the King, in the Ceſſion of *Newfoundland*, do reſerve to His Subjects a Right of Fiſhing and Drying on the Coaſt of *Newfoundland*, from Point *Riche* North about, to *Cape Bonaviſta*; and here no Direction is given concerning *Cape Breton*, of which the *French* got the entire Poſſeſſion and Propriety; although, in the Duke of *Shrewsbury*'s Inſtructions, it is declar'd, That the Queen look'd upon *Cape Breton* to belong to Her; and reckon'd that *Iſland* a Part of the ancient Territory of *Nova Scotia*, which is, by this Treaty, reſtor'd to Her. But if his Grace could not prevail upon them to agree with him in the Article of Commerce, he was to declare, That neither will the Queen agree with them in their Propoſition concerning *Newfoundland*.

Your Committee come now to conſider, upon what Conſideration this great and valuable Privilege of Taking and drying Fiſh upon the Coaſt of *Newfoundland* was yielded up to *France*.

In this Letter from Lord *Bolingbroke* to the Duke of *Shrewsbury*, is repreſented the State of the great Diſpute about Commerce, which appears to be this; In Monſieur *de Torcy*'s Anſwer to Lord *Bolingbroke*'s Memorial of *May* the 24*th* 1712. it was, among other things, agreed, That *Britain* and *France* ſhould grant to the Subjects of each Crown reciprocally, the ſame Privileges and Advantages which they ſhall either of them grant to the Subjects of any other Nation whatſoever; upon this Foundation was eſtabliſh'd the Principle of treating, and being treated, as *Gens amiciſſima*; and purſuant to this Principle the *Tariff* of 1664, which was granted to *Holland*, excepted the Four Species, was likewiſe to be granted to us; and by the 8*th* and 10*th* Articles of the Project of the Treaty of Commerce it was ſo ſettled. But *France* pretending now, that this Tariff would be too beneficial to us, although we were entituled to it, upon the Principle of being uſed as the *Amiciſſima Gens*, refuſed to grant it to us, until another Tariff ſhould be made in *Britain* exactly conformable to that of 1664, whereby our Duties ſhould be reduc'd as low here, as theirs are in *France* by that Tariff.

This, Lord *Bolingbroke* ſays, is an open Violation of Faith; and by this they are removing a Corner-ſtone, which was laid early in the Foundation of a Building brought almoſt to Perfection; the Fall whereof muſt prove at laſt of as fatal Conſequence to them as to us.

He confeſſes, he was ſtrangely ſurpriz'd when he ſaw the Precedent of the *Ryſwick* Treaty quoted, to perſwade us to refer our Commerce, as the *Dutch* then did theirs, to Commiſſioners, to be treated of after Signing the Peace. He ſays, the Behaviour of the *French* upon that Occaſion has given us warning; and it is from thence we have learn'd, that whatever is referr'd, is given up; and they muſt have a mean Opinion of thoſe whom they would perſwade to purſue the ſame Method, to get the Tariff of 1664, by which the *Dutch* then loſt it.

But ſurely his Lordſhip had either not learnt this Leſſon, or had entirely forgot it, when on the 24*th* of *May* he himſelf had propos'd, as has been before obſerv'd, that ſeveral Points relating to Commerce, requiring a longer Diſcuſſion than that Criſis would admit, Commiſſaries ſhould be appointed to ſettle and adjuſt the Differences. But then it ſeems they were more intent upon the General Peace, than any particular Advantages.

His Lordſhip goes on to offer an Expedient which was to ſolve all the Difficulties; and tells his Grace, I am commanded to acquaint you, that having fully opened to the *French* Miniſters, Her Majeſty's Senſe of the King's Engagements to Her upon this Head, you are to propoſe to them, to ſtrike out of the Project of the Treaty of Commerce the 9*th* and 10*th* Articles, and inſtead thereof, to inſert one to the Effect of that which I have drawn, and which comes here incloſed; and as the Acceptance of this Amendment was

to put an end to all the Differences, and at the ſame time gave ſuch ample Advantages to *France*, the *French* readily agreed to it. And did inſert this Article *verbatim* as it was ſent in the Treaty of Commerce, which makes the *Ninth* Article of the Treaty as it now ſtands, and is the ſame that was rejected by the laſt Parliament; and this Article, which has been ſince ſo univerſally and juſtly condemned, appears to be the Work of the *Engliſh* Miniſtry, and the Price for which they ſold to *France* the Fiſhery of *Newfoundland*.

This Treatment of *France* could not without doubt but give the Miniſtry the greateſt Uneaſineſs, tho' their Apprehenſions, leaſt the Circumſtances they were in ſhould be known, far exceeded their Concern at the Diſappointment *Great Britain* was like to meet with. They had ſign'd a ſeparate Treaty with *France* in *September* 1711. upon this ſingle Principle, that the Intereſts of *Great Britain* were in the firſt place to be adjuſted; and as long as they had this to ſay, they were unconcerned at all other Events. They had gone on for Fifteen Months together, and acted in every thing as the Inſtruments of *France*, and are at laſt in danger of being diſavow'd by *France* in the moſt eſſential part of all their Treaty. One of the chief Inducements and principal Conditions upon which the fatal Ceſſation of Arms was granted was, That no Privileges or Advantages relating to Commerce with *France* ſhall be yielded to any Foreign Nation which ſhall not at the ſame time be granted to the Subjects of Her *Britannick* Majeſty; but *France* had now reap'd the full Benefit of the Suſpenſion, and were at Liberty to diſpute the Principle of *Gens amiciſſima*.

In theſe Circumſtances were the *Engliſh* Miniſtry in *January* 1712-13. and to extricate themſelves, they give up all Points in Diſpute in *North America*, and the Fiſhery of *Newfoundland*; upon the ſingle Conſideration of the *Ninth* Article of the Treaty of Commerce, which the Parliament rejected with a juſt Indignation.

However, to bring *France* to a Compliance, even upon theſe Conditions, his Grace in the ſame Letter is inſtructed to prevail with *France* to come to this Reſolution without the Loſs of one Moment's time. The Parliament was ſuddenly to meet, and it would be neceſſary for the Queen to communicate to both Houſes the preſent State of the Negotiation. His Grace is then to repreſent to Monſieur *de Torcy*, in the beſt manner he is able, 'How ſmoothly 'every thing would glide along, if the Queen was able to ſpeak of Her own 'Intereſts as abſolutely determined with *France*; and on the other hand, 'what Travels we ſhall be expos'd to, and what Confuſion may ariſe, if our 'Negotiation appears to be ſtill open, and if the Secret comes to be di-'vulged, that *France* refuſes to make good in the Treaty the full Effect of 'former Promiſes to the Queen.

His Lordſhip having finiſhed what he had to ſay concerning Her Majeſty's particular Intereſts, he proceeds upon the general Plan of Peace, and inſtructs his Grace what he was to inform the *French* Miniſters would be the Meaſure of Her Majeſty's Conduct, and what they may expect from Her.

'That as the *French* Miniſters deſire that the Queen would precipitate the 'Concluſion of Her Peace, and leave all the Confederacy at their Mercy, they 'muſt be told, that when the mutual Intereſts of *France* and *England* are 'ſettled, as they will be, if the Propoſitions contained in the firſt part of 'this Letter are accepted, the Plenipotentiaries of *Great Britain* ſhall publick-'ly declare in the Congreſs that they are ready to Sign with thoſe of *France*, 'and ſhall call upon the Allies to quicken their Negotiations, and conclude 'without Loſs of Time. But if they ſeek unneceſſary Delays, or make unrea-'ſonable Demands, Her Majeſty, who has induced them to Treat, will by the 'ſame Meaſures engage them to conclude, or at leaſt She will ſign without 'them.

'And the Queen having once declared Her Intereſts to be ſettled, and Her 'Treaty ready to be ſign'd, the General Peace becomes from that Moment ſure; 'and the Remainder of the Negotiation eaſie; it is therefore wiſe for the *French* 'to comply with Her Majeſty.

The great Diſtraction the Miniſtry was in, appears ſufficiently from this long Letter of Lord *Bolingbroke*'s to the Duke of *Shrewsbury*: But to be more fully ſatisfied what their own Apprehenſions were, and what they themſelves thought would be the Conſequence of ſuch Proceedings; it is neceſſary to have recourſe

to

to two Letters, written about this Time, and upon this Subject, by Lord *Bolingbroke* to Mr. *Prior*. One of *January* the 19*th*, the other of the 22*d*, O. S. The first was of the same Date as his Letter to the Duke of *Shrewsbury*; and therein his Lordship says to Mr. *Prior*, 'I have exhausted all my Stock of Arguments in 'the long Letter which, by the Queen's Order, I writ to the Duke of *Shrews-* 'bury; to you I can only add, We stand indeed upon the Brink of a Precipice, 'but the *French* stand there to: Pray tell Monsieur *de Torcy* from me, that he 'may get *Robin* and *Harry* hanged; but Affairs will soon run back into so much 'Confusion, that he will wish Us alive again. To speak seriously, unless the Queen 'can talk of Her Interests as determined with *France*; and unless Your Court 'will keep Our Allies in the Wrong, as they are sufficiently at this time, I fore- 'see inextricable Difficulties.

'My Scheme is this: Let *France* satisfie the Queen, and let the Queen imme- 'diately declare to Her Parliament, and in the Congress, That She is ready to 'sign; at the same time let the *French* Plenipotentiaries show a Disposition to 'conclude with all the Allies. And then his Lordship enumerates the several 'Offers which he would have *France* make to the several Allies: which, tho' very 'general and insufficient, his Lordship says, if such Overtures as these (made to 'the Allies) were not instantly accepted, Our separate Peace would, sitting the 'Parliament, be address'd for, made, and approved; and the Cause of *France* for 'once become popular in *Britain*.

'If they were accepted, let Monsieur *de Torcy* sit down and consider what 'a Bargain would be made for *France*; let him remember his Journey to 'the *Hague*, and compare the Plans of 1709, and 1712.

'Monsieur *de Torcy* has a Confidence in you: Make use of it once for 'all upon this Occasion, and convince him thoroughly, that we must give 'a different turn to our Parliament and our People, according to their Re- 'solution at this Crisis.

The next Letter from his Lordship to Mr. *Prior*, is upon the same Subject, and of the same Strain: 'We are now, says his Lordship, at the 'true Crisis of our Disease, we Die at once, or Recover at once, let *France* 'depart from that shameful Expedient by which they thought to bubble us 'out of the Advantages which they had solemnly yielded, and all is well, o- 'therwise, by God, both they and we are undone.

'Pray send *Barton* back as fast as possible; the Queen can neither delay 'the Meeting of Parliament longer than the 3*d*. nor speak to the Houses 'till we hear from you.

'My Compliments to Monsieur *de Torcy*: Let him know, that if they do 'not agree with the *Queen*, I may perhaps be a Refugee; if I am, I pro- 'mise before hand, to behave my self better in *France*, than the *French* Re- 'fugees do here. Make the *French* asham'd of their sneaking Chicane; by 'Heaven, they treat like Pedlars, or, which is worse, like Attorneys.

As all these publick Transactions pass'd through the Hands of Lord *Bolingbroke*, who, although he was Secretary of State, acted *extra* provincially in all his Correspondence with *France*; so it appears at the same Time, that his Lordship was not the only Person in the Secret; but that a greater Influence chiefly directed and governed all these Councils. And my Lord Treasurer, as in the great Affair of *Tournay*, was in this Transaction the chief Conductor, as may very reasonably be concluded by several Letters that Mr. *Prior* wrote about this Time to my Lord Treasurer, although Mr. *Prior* has not thought fit to produce one Letter from his Lordship to him.

It is to be observ'd, that these Letters to my Lord Treasurer, were chiefly wrote on the same Days that Mr. *Prior* sent Dispatches to the Secretaries of State, giving an Account of his Proceeding, and desiring the Queen's Directions upon them; but it seems, he thought not that sufficient without knowing my Lord Treasurer's particular Pleasure upon them.

Mr. *Prior*'s Dispatch to the Secretary's Office, giving a full Account of the present State of the Treaty, together with several Papers, Memorials, and Propositions relating to the Points in Dispute, and concerning Commerce and North *America*, is dated *December* the 28*th*, 1712. *N. S.* The Day after, *December* the 29*th*, *N. S.* Mr. *Prior* writes to my Lord Treasurer, and tells him, I have wrote a Book instead of a Letter, to my Lord *Boling-*

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broke, which I desire your Lordship would be pleased to run over, that knowing what I have done here, you may Honour me with your Commands as to what I am to do. He hopes his Proposal about *Newfoundland*, which he sends his Lordship enclos'd, is such as may terminate that Affair to our Advantage. If your Lordship is of the same Opinion, I shall have entire Satisfaction.

January the 8*th*, 1712-13. *N. S.* Mr. *Prior* having sent another full Account in Form to the Secretary of State, writes the same Day to my Lord Treasurer, that he had been in Conference with the *French* Ministers to adjust the Points undecided between Her Majesty and the King of *France*; that he had sent Lord *Bolingbroke* the Result of those Conferences, as well what was agreed to by the *French* Ministers, as his own Remarks upon each particular Head; and says, I hope your Lordship will find the whole adjusted so far to your Satisfaction, as that our Plenipotentiaries may receive their final Orders. I will not doubt but the whole Affair of *Newfoundland* is adjusted to your desire; there were some Points insisted upon by our Plenipotentiaries which the Ministers here thought very unreasonable; and to say a Truth to my Lord Treasurer plainly, which I a little mitigate to my Lord *Bolingbroke*, I think not very reasonable. He then gives an Account that Monsieur *de Torcy* was surpriz'd that the *Dutch* had but in Part comply'd with what Lord *Strafford* declar'd to them to be Her Majesty's Resolutions, to which he hopes the Queen will send such an Answer as may cut off all Delays; and upon this Occasion Mr. *Prior* says to my Lord Treasurer; 'This I only write to your 'Lordship, it being a thing that should not be canvass'd in Council; and I have 'promis'd that the King should have Her Majesty's Answer upon it, as he 'desires.

January the 19*th*, 1712-13. *N. S.* Mr. *Prior* writes again to my Lord *Treasurer*; acquaints him, 'That the Duke of *Shrewsbury* now sends to Lord *Bolingbroke* the 'Substance of their last Conferences with Monsieur *de Torcy*, upon the Subject 'of *Newfoundland*; to which I take Leave to add; That your Friend *Torcy* is 'in the last Concern to find the Duke's Instructions so strict, in a Point which 'cannot be given up by *France*, at a Time when we well hop'd that Difference was adjusted. Pray, my Lord, let us have your distinct and positive 'Orders hereupon by the first. I send your Lordship enclos'd a Copy of my 'Letter to my Lord *Bolingbroke*, and Duke of *Shrewsbury* desires that we 'may have your Orders to finish. I believe *Torcy* writes himself to you. *January* the 23*d*, 1712-13. *N. S.* Mr. *Prior* writes once more to my Lord Treasurer, and tells him, 'I have already wrote so amply to your Lordship, on the two great 'Points of *Newfoundland*, and the Tariff of 1664, and expect so daily your 'last Orders upon those two Points, that I will not trouble you at present 'further than to say, if these Two are settled, the Peace may be determined 'here to Morrow, and sent the next Day to *Utrecht* to be sign'd. And on the 2*d* of *February* 1712-13. Mr. *Prior* says to my Lord Treasurer; 'If I desire you 'to write to me, it is because I really think it for the Queen's Service; that 'in this great Post where you have put me, I may be able to say, I have the 'immediate Commands of my Lord Treasurer; and in regard to that Friendship 'with which you have so publickly honour'd me, and which, by the By, does 'all the Business here.' And on *February* the 4*th*, 'I shall direct my self as you 'shall be pleas'd to instruct me privately.

If your Committee had found among the Papers delivered by Mr. *Prior*, My Lord *Treasurer*'s Answers to these Letters, they have Reason to believe it would have appear'd from them, how far the giving up the Fishery of *Newfoundland*, and the accepting of the 9*th* Article of the Treaty of Commerce, was owing to his Lordship's immediate Orders. It seems, however, to be a very extraordinary Proceeding, that the Queen's Ministers in *France*, acting by Authority, and under Her Instructions, should apply to my Lord *Treasurer*, for his distinct and positive Orders to release them from the Queen's Instructions; because they are thought by the *French* Ministers to be too strict; and if it be a Doubt, by whose Order or Advice it was procur'd, so much is certain, that these Applications had their desired Effect; and the *Newfoundland* Fishery was given up; and the Advantages we were to receive from being treated upon the Foot of *Gens amicissima*, were all bury'd in that destructive Article the 9*th* Article of the Treaty of Commerce.

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The Difficulties relating to North *America* and Commerce, being in this Manner determined, *France* was wholly intent upon concluding and ſigning with *Great Britain*, without taking in the reſt of the Allies; and in this they had the good Fortune to have the Concurrence and Aſſiſtance of the *Britiſh* Miniſtry.

By good Management, the Diſpute raiſed at *Utrecht* had been ſo order'd, that the Miniſters of the Allies could not obtain any Conferences with thoſe of *France*, till the Points in Difference were adjuſted between *England* and *France*; by which Means it was *February* 1712-13. before the *Dutch* and *French* were ſuffered to meet: And it being now the Buſineſs of *France* to conclude with *England* ſeparately, the Temper the *French* Plenipotentiaries appear'd in, made all Buſineſs ſo impracticable, that the *Britiſh* Plenipotentiaries were under a Neceſſity of complaining of it to Lord *Bolingbroke*, and to acquaint him, *February* the 3*d*, 1712-13. 'The *French* '(*n*) appear ſo very uncomplying in every Point debated, and ſo very forward 'and poſitive in their Refuſal of a great many things, which the *Dutch* took to 'be granted and ſettled, as well by Her Majeſty's Speech, as the Declarations 'lately made by Lord *Strafford*, that the Diſappointment they met with, put them 'in the greateſt Conſternation: Reaſon was alſo given us to participate in theſe 'Diſcontents, and to regard ſeveral things which appear contrary to what Her 'Majeſty has declar'd, as very unfair; yet all that could be ſaid prevail'd not.

Your Committee is not ſurpriz'd, that the Inſtances of their Excellencies had ſo little effect with the *French* Plenipotentiaries, who then expected that Orders ſhould be ſent to the *Britiſh* Plenipotentiaries immediately to ſign a ſeparate Peace, which, according to their Expectations, were ſent (*o*) *Feb.* 20. 1712-13. by Mr. *St. John*, Brother to the Lord *Bolingbroke*, to Conclude and Sign with *France* as ſoon as the Duke of *Shrewsbury* ſhould ſend them Advice that the Propoſitions he was to make at the *French* Court were accepted; and on the 28*th* Lord *Bolingbroke* with the utmoſt Joy acquaints their Excellencies, 'That he had received from the Duke of *Shrewsbury* the 'expected Returns; and which he doubted not would have reach'd their Lordſhips. 'He had therefore, without ſtaying to enter into any other Detail, diſpatch'd a Cou-'rier to them, to renew thoſe Inſtructions which he hoped were clearly enough ſigni-'fy'd in thoſe Papers which his Brother carried. He acquaints them that the Duke of '*Shrewsbury* had declar'd, that their Lordſhips had Orders, in Caſe the *French* com-'ply'd, as they now actually have done, to ſign Her Majeſty's Peace with *France* 'without further Delay; and that his Grace had alſo declar'd, that in this Caſe 'Her Majeſty would open the Parliament, by telling them, She had made a Peace 'with *France*. Theſe two Conſiderations, his Lordſhip ſays, were perhaps the moſt 'prevalent Inducements to the *French* Court, to come roundly into Her Majeſty's 'Propoſitions; and the Queen thinks Her ſelf, for this Reaſon, ſtill the more ob-'lig'd punctually and religiouſly to fulfil theſe Promiſes. The latter She will 'Her ſelf perform on *Tueſday*; and the former, it is Her poſitive Command that 'your Lordſhips make good as faſt as the neceſſary Forms of preparing and exe-'cuting the Inſtruments will allow. And his Lordſhip looking upon it now, that 'the chief Difficulties, relating to the Treaty of Peace, were remov'd; as likewiſe 'in the Treaty of Commerce, by the Article drawn by himſelf, and propos'd by 'the Duke of *Shrewsbury*, he gives their Excellencies poſitive Orders, without 'any Delay, to execute the Treaties of Peace and Commerce between *Great Bri-'tain* and *France*.

On the 7*th*, and 20*th* of *March*, *O. S.* (*p*) Lord *Bolingbroke* repeats theſe poſitive Orders, and inſiſts, that the Peace ſhould be concluded with that Precipitation which Her Majeſty would have us'd. And it is obſervable, that among all the Demands that were made, upon Account of any Prince or Potentate, none at this Time met with the leaſt Regard; when, at the ſame time, the Intereſt of the Princeſs *Urſini* is eſpous'd in the ſtrongeſt Terms: And in the ſame Letter, *March* 3. *O. S.* (*q*) where his Lordſhip, ſpeaking of the Conſequence of the Reſtoration of the Elector of *Bavaria* to his Electorate, ſays; 'Her Majeſty does not much enter in-'to the Notion of the Degradation of *Hanover* as a Matter of any Importance. His Lordſhip declares, 'That the Principality in ſome Part of the *Spaniſh Nether-'lands*, with a Revenue of 30000 Crowns, demanded for the Princeſs *Urſini*, muſt 'be made to the Emperor, and all Parties concern'd, a Condition, *ſine qua non*, of 'the General Peace.

(*n*) *Vol.* 4. (*o*) *Vol.* 5. (*p*) *Vol.* 5. (*q*) *Vol.* 5.

But the *Britiſh* Plenipotentiaries, who were to ſign, had ſome Difficulties; and they acquaint (r) Lord *Bolingbroke*; 'We could ſay a great deal to juſtify our cautious Proceedings with the *French*; and are ſatisfy'd, that your Lordſhip would be of the ſame Opinion, if you were to ſee their Way of negotiating with all the Allies; And how hard it is for us to obtain here what to your Lordſhip ſeems impoſſible the *French* ſhould make any Difficulty to grant.

The repeated Orders to the Plenipotentiaries prevail'd at laſt ſo far upon them, as to acquaint the Allies, the Queen found it neceſſary to conclude Her own Peace without Delay; and that Time ſhould be allow'd thoſe that are not ready: But they ſtill avoided the actual Signing till the reſt of the Allies, whoſe Treaties were in a Forwardneſs, were ready to ſign with them; and, to juſtify themſelves, they acquaint the (s) Duke of *Shrewsbury*, 'That, beſides other Conſiderations, their chief Objection was, that though they had Orders to ſign a particular Peace, yet their full Powers under the Great Seal, only Authoriz'd them to negotiate, agree, and conclude the Conditions of a Good and General Peace, agreeable to the Intereſts of all, and each of the Allies. And what made them more averſe, was the great Importunity with which the *French* puſh'd them to ſign ſeparately. We are ſurpriz'd at the Eagerneſs of the *French* Miniſters to have us conclude with them alone, when ſo many of the Allies are, in a Manner, ready to join with us; nor can we enough apprehend the Conſequences at Home of doing it alone.

Lord *Bolingbroke*, (t) who ſays he has not Sagacity enough to find the Objections that the Plenipotentiaries had made to their firſt full Powers, for their Satisfaction, ſends them a new Commiſſion, and repeats to them poſitive Orders to ſign and conclude with *France*; for which Purpoſe they were to appoint a Day to deſire them to be ready; and at the ſame time to preſs ſuch as could not be ready by that Day, to fix ſome other on which they will ſign.

By this new Commiſſion, his Lordſhip tells them, they have a Power, as before, *tractandi conveniendiq*; the Conditions of a Good and General Peace, which is no more than you are to do when you are to offer jointly with the Miniſters of *France*, a General Plan to the Allies.

Theſe Difficulties of the Plenipotentiaries made my *Lord Treaſurer*, who never fail'd to exert himſelf when he found it abſolutely neceſſary, think it high Time to interpoſe his Authority; and accordingly *March* 31*ſt*, *N. S.* (u) wrote to my Lord *Strafford* in this Manner; 'I muſt felicitate your Excellency upon the Succeſs of all your Zeal, and the true Love you have ſhewn to your Queen, your Country, and Repoſe of all *Europe*.

'The remaining Danger is, leaſt we ſhould ſuffer Ship-wreck in the Sight of the Port. The Nation here are Five Hundred to one for Peace. The Warriours are driven from their Out-works; the laſt Retrenchment they have is Delay; and I muſt ſay, this operates much here: The Ferment begins to work, and it will be impoſſible to anſwer for the Turn the Houſe of Commons will take, if theſe Delays provoke them further. They all feel how many Hundred Thouſand Pounds this needleſs Protraction coſts them. We now maintain Forty Nine Thouſand effective Men by Land, and Thirty Thouſand, within a Trifle, by Sea. In the mean Time, the Merchants lie off, and will not come into Port; the Amuſement of Stories invented by the Faction, and the Correſpondence and Encouragement that Party gives to their Friends to hold out, and to wait for ſome unhappy Accident that may unravel all which is done: Add to this, the ill Humour which will grow in Members, by being kept ſo long in Town idle; and, in one Word, all that has been unſettled for many Days, is not worth one Day's Charge *England* is at extraordinarily by this Delay. I find this ſeems to be the prevailing univerſal Opinion here; and that *France* has acquitted herſelf, the only Stop is now at *Utrecht*.' But this Stop did not now remain long; and as his Lordſhip never yet appeared in vain, all further Obſtructions at *Utrecht* were after this ſoon removed. *April* the 1*ſt*-11*th*, 1713. the Treaties of Peace and Commerce between *Great Britain* and *France* were ſign'd, between two and three in the Afternoon. This Example was follow'd by ſeveral of the Allies, who came dropping in one after another: And laſt of all, when it was in vain to hold out any longer, the *Dutch* about Midnight ſign'd their Treaties of Peace

(r) *April* 4. N. S. 1713. *Vol.* 5. (s) *March* 20. *Vol.* 5. (t) *March* 20. O. S. *Vol.* 5. (u) *Vol.* 5.

Peace and Commerce; and the Emperor and Empire alone, chose rather to bear the whole Weight of the War, than ſubmit to ſuch diſadvantageous and diſhonourable Terms as had been carv'd out for them by *England* and *France*.

The Peace being thus ſettled between *Great Britain* and *France*, your Committee find, from the Negotiation which remain'd ſtill to be carry'd on with *Spain*, that the Queen's Plenipotentiaries did ſuffer a Clauſe to be inſerted at the End of the 15*th* Article of the Peace with *Spain*, whereby they gave a Pretence to the *Spaniards* to claim a Right to fiſh at *Newfoundland*.

The Words of the Article are theſe: *Whereas it is inſiſted on the Part of* Spain, *that certain Rights of Fiſhing at the Iſland of* Newfoundland, *belong to the* Guipuſcoans, *or other Subjects of the Catholick King*; *Her* Britannick *Majeſty conſents and agrees, that all ſuch Privileges as the* Guipuſcoans, *and other People of* Spain, *are able to make Claim to by Right, ſhall be allow'd and preſerv'd to them.*

This Claim of the *Spaniards* is contrary to the 7*th* and 8*th* Articles of the Treaty made with that Crown by Sir *William Godolphin*, 8*th*-18*th July* 1670. whereby it is agreed, 'That the moſt Serene King of *Great Britain*, His Heirs and Succeſſors, 'ſhall have, hold, keep, and enjoy for ever, with plenary Right of Sovereignty, 'Dominion, Poſſeſſion, and Property, all thoſe Lands, Regions, Iſlands, Colonies, 'and Places whatſoever, being or ſcituated in the *Weſt-Indies*, or in any Part of *A-*'*merica*, which the ſaid King of *Great Britain*, and his Subjects, do at preſent hold 'and poſſeſs.

'And that the Subjects and Inhabitants, Merchants, Captains, Maſters of Ships, Ma-'riners of the Kingdoms, Provinces and Dominions of each Confederate reſpective-'ly, ſhall abſtain and forbear to ſail and trade in the Ports and Havens which have 'Fortifications, Caſtles, Magazines, or Ware-Houſes, and in all other Places what-'ſoever, poſſeſs'd by the other Party in the *Weſt Indies*; to wit, the Subjects of the 'King of *Great Britain* ſhall not ſail unto, and trade in the Havens and Places, which 'the Catholick King holdeth in the ſaid *Indies*; nor, in like Manner, ſhall the Sub-'jects of the King of *Spain* ſail unto, or trade in thoſe Places which are poſſeſs'd 'there by the King of *Great Britain*.

The Board of Trade was conſulted upon the *Spaniards* claiming a Right to fiſh at *Newfoundland*, ſoon after the late Peace, and returned the following Anſwer to Lord *Dartmouth*, dated *June* the 13*th*, 1712-13.

'That in Obedience to Her Majeſty's Commands, ſignify'd to us by your Lord-'ſhip's of the 1*ſt* Inſtant, We have conſidered the Extract of a Memorial from the 'Marquiſs *de Monteleon*, relating to a Claim of the Inhabitants of the Province 'of *Guipuſcoa*, to fiſh on the Coaſt of *Newfoundland*; and thereupon take Leave to 'inform your Lordſhip, that we have diſcours'd with ſuch Perſons as are able to give 'us Information in that Matter; and we find that ſome *Spaniards* have come thither 'with Paſſes from Her Majeſty, and others may have fiſh'd there privately; but 'never any, that we can learn, did do it as of Right belonging to them.

By the Act to encourage the Trade to *Newfoundland*, paſs'd in the 10*th* and 11*th* Years of His late Majeſty, when we were in Amity and Alliance with *Spain*, it is declar'd and enacted, 'That no Alien or Stranger whatſoever, not reſiding within the 'Kingdom of *England*, Dominion of *Wales*, or Town of *Berwick* upon *Tweed*, ſhall 'at any time hereafter take, bait, or uſe any Sort of Trade, or Fiſhing whatſoever, 'in *Newfoundland*, or in any of the Iſlands adjacent: Purſuant to which Act, In-'ſtructions have been given every Year to the *Commodores* of the Convoys, to pre-'vent Foreigners coming thither.

The Committee find themſelves at a Loſs to account for the Reaſons that prevail'd with the Miniſtry to admit the Inſertion of this Article; and upon this Occaſion they think themſelves oblig'd to acquaint the Houſe, that they find very few Foot-ſteps remaining of the whole Tranſaction, relating to Commerce with *Spain*. It appears, that the Management of it was entruſted with Mr. *Gillingham*, an *Iriſh* Papiſt, who was ſent thither for that Purpoſe; for which Reaſon Lord *Lexington*, in his Letters to Lord *Dartmouth*, frequently excuſes himſelf for not writing upon that Subject, Mr. *Gillingham* giving ſuch full Accounts of the Matter; notwithſtanding which, no one Letter from Mr. *Gillingham* to the *Secretaries Office* can be found; and the Committee are induc'd to believe, that this whole Tranſaction was carry'd on by another Way. From a Letter of Lord *Lexington* to Lord *Dartmouth* of *January* the 9*th* 1712. (w) wherein his Lordſhip, ſpeaking of the Buſineſs of Commerce, ſays, 'Mr. *Gillingham* gives an Account of the Steps we have made, ſo I 'don't trouble you with them again; knowing that what goes to my *Lord Treaſurer*, 'is the ſame as to your ſelf.

From

(w) *Vol.* 12.

From this Paſſage it appears evident to your Committee, that a Correſpondence was carry'd on between the Earl of *Oxford* and Mr. *Gillingham*, in relation to our Treaty of Commerce with *Spain*. But for want of the Papers which paſs'd between them upon this Subject, your Committee is likewiſe at a Loſs to find what Motives could induce the *Britiſh* Miniſtry to admit ſo eſſential an Alteration of the Treaty of Commerce, ſign'd by the Queen's Plenipotentiaries, as is made by the *Three Explanatory Articles*, as they are call'd, which are added to the ſaid Treaty, and are, in an unprecedented Manner, inſerted in the Ratification of it; nothwithſtanding it doth not appear, they had ever been conſented to, much leſs ſign'd, by any of the Queen's Plenipotentiaries; amongſt other very material Diſadvantages to which theſe Articles ſubject our Merchants, your Committee is inform'd, that, by Virtue of them, *Spain* does actually at this Time demand of our Merchants Fourteen *per Cent.* on Account of *Cientos*, *Millones*, and *Alcavalas*, over and above Fifteen *per Cent.* which they exact for other Duties, (*No.* 44.) which added to them, amounts to no leſs than Twenty Nine *per Cent.* whereas, 'tis notorious, that, during the Reign of King *Charles* II. of *Spain*, the whole Duties exacted, and paid by our Merchants for all Goods imported to the ſeveral Ports of *Spain*, computed by an Avarage, did never exceed Ten *per Cent.* but rather fell ſhort of it. By what Management theſe Articles were ratified, and how legal and warrantable it was to affix the Great Seal to Articles ſo pernicious in their Contents, and ſo irregularly offer'd, your Committee muſt ſubmit to the Conſideration of the Houſe.

Your Committee having thus gone through the chief Tranſactions relating to the Negotiations of Peace and Commerce, proceed to offer to the Houſe what they have found material in the Papers referr'd to them concerning the *Catalans*.

After ſeveral unſucceſsful Attempts by the Way of *Portugal*, and the Deſign upon *Cadiz*, to ſettle King *Charles* on the Throne of *Spain*; and that the Confederate Fleet had appear'd before *Barcelona* in 1704. without the deſir'd Succeſs; Her Majeſty, in the Beginning of the Year 1705. ſent Mr. *Crowe* asHer Miniſter to *Genoa*, with private Inſtructions which are here annex'd, (*No.* 45.) to the following Effect: 'That Her Majeſty being inform'd, that the People of *Catalonia* were enclin'd to caſt 'off the Yoke impos'd on them by the *French*; and by withdrawing themſelves from 'the Power of the Duke of *Anjou*, to return to the Obedience of the Houſe of '*Auſtria*, was deſirous to maintain and improve that good Diſpoſition in them; and 'to induce them to put the ſame ſpeedily in Execution, had made Choice of 'him to carry on ſo great a Work for the Advantage of Her Service, and the 'Good of the Common Cauſe. He is therefore order'd to repair to *Genoa*, '*Leghorn*, or ſuch other neutral Country or Place, as he ſhould judge moſt proper, 'for carrying on Her Majeſty's Service in this particular; and to treat with the '*Catalans*, or any other People of *Spain*, about their coming into the Intereſt of '*Charles* the Third of *Spain*, and joining with Her Majeſty and Her Allies. For that 'Purpoſe he is to inform himſelf, what Number of Forces they will raiſe, and 'what they expect ſhall be ſent to aſſiſt them: If any of the Nobility inſiſt up'on a Sum of Money to be advanc'd to them, he muſt aſſure them, he does not 'doubt but he ſhall be impower'd to remit to them whatſoever is neceſſary and 'reaſonable for their Support, as ſoon as they are actually in the Field: That he 'ſhall give the *Catalans*, or other *Spaniards*, Aſſurances of Her Majeſty's utmoſt 'Endeavours to procure the Eſtabliſhment of all ſuch Rights and Immunities as 'they have formerly enjoy'd under the Houſe of *Auſtria*: That She has, for their 'further Satisfaction, ſent to King *Charles* the Third, for Powers for confirming 'the ſame to them; and that She is willing, if they inſiſt on it, to give Her 'Guarranty that it ſhall be done.

Mr. *Crowe* had alſo a Commiſſion (*No* 46.) of the ſame Date with his Inſtructions, to treat with the *Catalans* upon the Terms beforementioned, upon this expreſs Condition on their Side, that they ſhould acknowledge, and receive King *Charles* as lawful King of *Spain*, and utterly renounce the Houſe of *Bourbon*.

He had with this, credential Letters, (*No.* 47.) Sign'd by the Queen, directed to the Nobility, Magiſtrates, and all Officers Civil and Military, of *Catalonia*, deſiring them to depend upon the Promiſes he ſhould make them in Her Name.

The

The Earl of *Peterborow*, and Sir *Cloudesly Shovel*, by their Inſtructions, N°. (48). dated *May* 1. 1705. are likewiſe order'd to uſe their Endeavours to induce the *Catalans* to join with them in their Undertakings, and to animate that People to proſecute their Liberty with more Vigour; they are empower'd to aſſure them of the Queen's Support, and to promiſe them in the Queen's Name, that ſhe will ſecure them a Confirmation of their Rights and Privileges from the King of *Spain*, that they may be ſettled on a laſting Foundation to them and their Poſterities. But leſt Perſwaſions alone ſhould not prevail, they are ordered, in Caſe the *Catalans* make no ſuitable Return to theſe kind Offers, to annoy the Towns of the Coaſt of *Spain*, and to reduce them by Force.

In Conformity to theſe Inſtructions, a Declaration was drawn here, and deliver'd by Mr. Secretary [illegible] the Earl of *Peterborow*, for his Lordſhip to publiſh in *Spain*, full of Aſſurances in the Queen's Name, of Support, and of their Liberties on the one hand, and Threats on the other; which Declaration his Lordſhip, on his Arrival in *Spain*, did accordingly publiſh, N° (49).

The Succeſs of that Expedition needs not be here particularly mention'd. King *Charles*, in his Letter to the Queen, of *October* 22. 1705. gives an Account of them, and what they were owing to, *viz.* "The Aſſurances of your "Majeſty's generous Protection, upon which my Subjects in *Catalonia* expoſe "their Lives and Fortunes.

No Want of *Fidelity* or Zeal for the Common Cauſe, during a long War, that abounded with extraordinary Turns of Fortune, was ever objected to theſe People; on the contrary, they received to the laſt the Applauſes of the Allies, and Aſſurances repeated to them by every General and Miniſter that was ſent from *Great Britain* to that Country, that they ſhould never be abandon'd.

When the Queen enter'd into ſeparate Meaſures of Peace, Lord *Lexington* was ſent Ambaſſador to *Spain*, at which time, conſidering the Circumſtances of King *Philip*'s Affairs, and the Obligations he had then received from the Queen, the *Catalan* Privileges, if plainly demanded and inſiſted upon, could not have been refuſed, and without it, could never be expected to be granted to a People ſo remarkably zealous for the Common Cauſe.

But his Lordſhip's Inſtructions, N° (50), inſtead of directing him to inſiſt upon this, as a Condition of the Queen's Coming into the Peace, order him only to *Repreſent* to the Court of *Spain*, that it is no leſs for the King's Intereſt, than for the Queen's Honour, that a general Amneſty without Exception be granted to all *Spaniards* who have adher'd to the Houſe of *Auſtria*, and in a particular manner to the *Catalans*, with regard to their Perſons, Eſtates, Dignities and Privileges.

Theſe Inſtructions, tho' very defective, were not complied with; for Lord *Lexington*, in the 11th Article of his Paper, which is call'd Demands, N° (51), deliver'd to the Court of *Spain*, upon his Arrival there, expreſſes himſelf thus; "That the Queen prays his Catholick Majeſty, that a general Amneſty with-"out Exception be granted; but leaves out the Words in his Inſtructions *with regard* to their Perſons, Eſtates, Dignities and Privileges.

The King's Anſwer was, "That the General Amneſty relating entirely to "the General Peace, was not proper for the preſent Treaty; and therefore he "leaves it to be then treated of; that his Majeſty will make Uſe of his great "Clemency, provided the Queen will contribute to the Safety, to the Repoſe, "and to the Intereſts of ſo many faithful Subjects, who, according to their "Duty, had followed his righteous Cauſe in *Flanders*, and in all the Parts of "*Italy*; and that an expreſs Article be inſerted in the Peace, wherein it ſhall "be declared, That all Subjects who have done their Duty, by adhering to "his Catholick Majeſty, ſhall be eſtabliſh'd in their Eſtates and Honours, of "what Nature ſoever they be, which they enjoyed when they were under his "Obedience; and that they may mortgage, exchange or ſell, at their Plea-"ſure; and that they ſhall have full Liberty to continue in the Service of their "King; and that neither upon this Pretext, or any other whatſoever, they "ſhall receive the leaſt Prejudice, or the leaſt Harm in their Eſtates and "Honours, or any Moleſtation whatever; and that any Municipal Law to the "contrary (if there be any ſuch) ſhall be made void by the Treaty of Peace.

Lord *Lexington* tranſmits this Anſwer to *England*, which, tho' containing a direct Refuſal at preſent of what was deſired, and only General Aſſurances of Clemency from the King, on Conditions that could not poſſibly be expected

to be complied with; yet his Lordſhip in his Letter to Lord *Dartmouth*, writes Word, That the 11th Article (which is this about the *Catalans*) was agreed to; and thinks what they deſire is but Juſtice: And then goes on; "Thus, My "Lord, I have finiſh'd my Negotiation in the beſt Manner I could, and "hope it will be to her Majeſties Satisfaction.

No Diſſatisfaction was ſhewn by the Miniſtry in *England*, either with this Manner of Negotiating, or the Fruitleſneſs of it, but he is ordered to proceed in the Buſineſs, both as it was an Act of Humanity, which every one to the utmoſt of their Power ought to promote; and that the Intereſt of the King of *Spain* was moſt nearly concern'd by that Means to get the *Germans* out of the Country.

Hereupon another Memorial for an Amneſty is preſented, the Motive us'd to enduce the King to grant it, is his own Intereſt, and to remove the *Germans*, without any Notice taken of the Queen's Honour being concern'd in the Affair.

The King anſwer'd, "That the *Catalans* had deſerved little from him; that "they were now reduc'd to a ſmall Extent of Ground, by the with-drawing "of the Troops of *Britain* and *Portugal*; that his Troops, and thoſe of the "King his Grandfather, were entring into their Country by three ſeveral "Ways; therefore more in Complaiſance to the Queen, than for the Argu"ments that had been offer'd, he was willing to grant his Pardon to thoſe *Ca*"*talans*, who acknowledging his Clemency, and repenting them of their Error, "ſhould ſubmit to his Dominion and Vaſſalage, within a Time to be prefix'd.

Count *Sinzendorff*, in the Project for Evacuating *Catalonia*, inſiſted upon the preſerving the People their Privileges: But the King of *Spain* refus'd it, and would only grant them an Amneſty and Pardon.

Lord *Dartmouth*, in his Letters both to the Marquis *de Monteleone*, and Lord *Lexington*, ſays, "He cannot expreſs the Queen's Surprize to hear, that the "Privileges of the *Catalans* were not intended to be preſerved to them by the "Court of *Spain*; that thoſe Privileges were neceſſarily included in the "Meaning of a General Amneſty already granted; and this was an Affair "wherein the Queen's Honour was extremely concern'd, and that ſhe was "obliged by Motives of Conſcience not to depart from it. Lord *Lexington* is hereupon order'd to inſiſt again upon it, in the ſtrongeſt Manner imaginable; that when the King of *Spain* is convinc'd of her Majeſty's Steadineſs, and the Firmneſs of her Reſolution to adhere to this Demand, no doubt he will yield to what has been ſo ſolemnly promis'd, and is in it ſelf ſo reaſonable. That the Marquis *de Monteleone*, being reſtrain'd by his Inſtructions from treating upon this Point, the Negotiating of it muſt entirely lie upon Lord *Lexington*.

Accordingly his Lordſhip preſents another Memorial for a general Amneſty, with the Confirmation of all their Privileges. The Amneſty, he ſays, was granted, but the Privileges entirely refuſed, and in ſuch a poſitive Stile as he never met with, but in demanding a Tract of Ground about *Gibraltar*.

In another Letter, ſpeaking of the many denials he met with in *Spain*, he ſays, "Things are not here upon the ſame Foot as they were before the Suſpenſion, "for the King told me theſe Words, We know that the Peace is as neceſſary "for You as for Us, and that You will not break it off for a Trifle.

It may ſeem at firſt ſight unaccountable how the Queen's Endeavours could fail of Succeſs, when ſhe declar'd her Conſcience was concern'd in this Matter, and that, tho' She deſired a Peace, She would not act inconſiſtently with Honour and Juſtice to obtain it.

The firſt fatal Step to the Ruin of the *Catalans*, was the Orders ſent Lord *Lexington*, (contrary to his firſt Inſtructions) upon his arrival at *Madrid* to acknowledge *Philip* as King of *Spain* in a private Audience, before any one Article of Peace or Commerce was ſettled with him, which put him in a Condition of refuſing this, and whatever elſe he ſhould think fit.

The manner how *Spain* gain'd this important Point appears to be as follows: Lord *Dartmouth* had acquainted Mr. *Prior*, that Lord *Lexington* was not to acknowledge *Philip* as King of *Spain*, till he had agreed to the Demands his Lordſhip was to make in the Queen's Name.

However Lord *Dartmouth* thinks it convenient the Sentiments of the *French* Court ſhould be known upon this Matter as ſoon as poſſible.

This Method of Proceeding with *Spain* was very much diſlik'd in *France*, and Mr. *Prior* writes Lord *Dartmouth* a very elaborate Letter, full of Monſieur *Tor-*

cy's Reaſons to induce our Miniſtry to recede from that Point, and concludes with this remarkable one. "That the whole Treaty being Eventual, this Ac-"knowledgment of *Philip* as King of *Spain*, would fall as the other Points, un-"leſs the Conditions were made good, and the Peace agreed and ratified.

Hereupon Lord *Bolingbroke* determins this Matter in Favour of *Spain*, by imputing the former Directions to Lord *Dartmouth*'s miſtaking the Queen's meaning: And writes Mr. *Prior* Word that he was equally ſurpriz'd, and vexed to find by the unpoliſh way of explaining the Queen's Senſe, that Mr. *Prior* had been led to imagine it was intended Lord *Lexington* ſhould make any difficulty of acknowledging the King of *Spain* as ſuch. The proceeding this way, by acknowledging the King in the firſt Place, ſays his Lordſhip, ſeems natural, civil, and unexceptionable; any other Scheme is abſurd and inconſiſtent with all the reſt of our Proceedings; and then concludes, "For God's "ſake, dear *Matt*, hide the Nakedneſs of thy Country, and give the beſt turn "thy fertile Brain will furniſh thee with, to the Blunders of thy Country-"men, who are not much better Politicians than the *French* are Poets.

Lord *Dartmouth* it ſeems thought fit to acquieſce, and the ſame Day that this Letter was writ, diſpatch'd Orders to Lord *Lexington*, to acknowledge King *Philip* in the firſt Place; notwithſtanding his former Inſtructions to the contrary.

But to return to the *Catalans*. Nor did the Miniſters ſhew that Zeal for the Queen's Honour as might be expected, but plainly gave this Matter up. Lord *Bolingbroke* in his Letter to the Queen's Plenipotentiaries at *Utrecht*, tells them, "It is not for the Intereſt of *England* to preſerve the *Catalan* Liber-"ties, and likewiſe begs leave to make an Obſervation to them, that the *Catalan* "Privileges are the Power of the Purſe and Sword; but that the *Caſtilian* "Privileges, which the King of *Spain* will give them (in exchange for their "*Catalan*) are the Liberty of Trading, and reſorting to the *Weſt Indies*, and "a Capacity of holding thoſe beneficial Employments the King has to beſtow "in *America*, which, ſays his Lordſhip, are of infinitely greater Value to "thoſe who intend to live in a due Subjection to Authority.

Lord *Lexington* alſo, inſtead of ſupporting the *Catalan* Privileges, treated the People as Rebels, and to induce *Spain* to make Peace with *Portugal*, puts Monſieur *Orry* in mind of the neceſſity *Spain* is in of withdrawing their Troops from *Andaluſia*, in order to end the *Rebellion* of the *Catalans*. N° (53.)

When the Convention was forc'd upon the Emperor for the evacuating *Catalonia*, the Imperial Miniſters at *Utrecht* inſiſted upon the preſerving by that Treaty the Privileges of *Catalonia*, *Majorca*, and *Ivica*; but *France* and her Confederates inſiſting, that that Matter ſhould be referred to the Peace, the Imperial Miniſters at laſt acquieſc'd, upon the Queen of Great *Britain*'s declaring again, "That ſhe would interpoſe her good Offices in the moſt effectual "Manner to obtain the Privileges of *Catalonia*, *Majorca*, and *Ivica*:" And the *French* King engag'd at the ſame time to join his Endeavours for that Purpoſe. Hereupon the Negotiation in *Spain* was kept up till our Treaty of Peace with that Crown was ripe, by which the *Catalan* Liberties were to be abandon'd. This Lord *Lexington* ſign'd, contenting himſelf with proteſting againſt that Article at the ſame Time he ſign'd it; as he had writ Word before he intended to do, and that therefore the Queen was entirely at liberty to reject it.

Notwithſtanding the King of *Spain*'s former refuſal, Lord *Lexington* is again directed to inſiſt upon the *Catalan* Privileges, and is again told, That the Queen thought her ſelf obliged by the ſtrongeſt Ties, *viz.* thoſe of Honour and Conſcience, to inſiſt upon it, for a People whom the Neceſſity of the War had obliged her to draw into her Intereſt. His Lordſhip had ſign'd the Treaty with *Spain* before theſe Orders to preſent another Memorial arrived.

He thereupon acquaints the Marquis of *Bedmar*, that he was ſorry he was oblig'd to do any thing which he knew was againſt the King's Sentiments, but having receiv'd expreſs Orders, he muſt follow his Duty, and preſents the following Memorial.

THE under-written Miniſter of the Queen of *Great Britain*, in purſuance of the ſtrict Orders he receiv'd the laſt Poſt, is oblig'd moſt humbly to renew the Inſtances he has ſo frequently made to Your Majeſty, in favour of the *Catalans*; The Queen orders him to repreſent, that ſhe has nothing more at heart, than to obtain for thoſe People the ſame Privileges they formerly enjoy'd

joy'd, which ſhe thinks her ſelf oblig'd to do, by the two ſtrongeſt Motives that are poſſible, *viz.* Honour and Conſcience, that ſhe may not leave a Nation, which the Misfortune of War obliged her to draw into her Intereſt, in a worſe Condition than ſhe found them. She hopes, that after all the Pains ſhe has taken for procuring a ſolid and laſting Peace to *Europe*, Your Majeſty will not leave her with the Grief of having been the Occaſion of the Loſs of the Privileges of that People, but rather that in regard to the ſtrict Friendſhip which with God's Bleſſing is ſo near being eſtabliſh'd between both Your Majeſties, as well as the Union ſo neceſſary to the Intereſts of both Nations; Your Majeſty will not make any Difficulty any longer to grant this Favour to her Majeſty, which ſhe has ſo much at heart.

The Marquis *de Bedmar*'s Anſwer to this Memorial was, That this Point about the *Catalans* having been debated in the Treaty lately concluded, and ſign'd in this Court by his Excellency and himſelf, which his Excellency will own, and may be pleas'd to acknowledge, the King does not ſee that any thing further is to be done in the Matter.

This Treaty was ſent to *England*, and ratified by the Queen. Lord *Dartmouth* ſays that Lord *Bolingbroke* had the principal ſhare in the Negotiation, and that the Article of the *Catalans* was put in as ſoft Terms as was conſiſtent with the Queen's Honour to allow.

The Terms of the Treaty are, That the *Catalans* ſhall have the ſame Privileges as the King's beſt belov'd Subjects the *Caſtilians* enjoy.

When the King of *Spain* had received this convincing Proof of our Miniſtry's Attachment to his Intereſts, and that the beforemention'd Ties of the Queen's Honour and Conſcience were of no Force with them when oppoſed to his Deſires, he takes a further Step, and directly propoſes to Lord *Lexington*, that the Queen would aſſiſt him with Ships to block up *Barcelona*. N° (56).

His Lordſhip's Anſwer was, That he was affraid this Propoſal would meet with this Difficulty, That her Majeſty would be very unwilling to lend her Ships to exterminate a People that had taken up Arms in a great meaſure at the Inſtigation of her Miniſters; and that ſhe would think ſhe had done enough to gratify the King, in not inſiſting upon the preſerving for them their antient Liberties, without helping to deſtroy them. But the Regard the Miniſtry had to this Requeſt of the King, will afterwards appear.

The French Ambaſſador and the Princeſs *des Urſins* propoſed to Ld *Lexington*, and the Night before he left *Madrid*, the King ſent for him, and engaged him to write a Letter, concerted with, and approved by the King, to the Regency of *Barcelona*, N° (57) adviſing them to ſubmit themſelves to their King. His Lordſhip aſſures them of his conſtant Endeavours to do the beſt he could for them; that God had not permitted him to do more than he had done: That if they would take their Reſolutions ſoon, before he was out of *Spain*, he would write for them in the manner they ſhould deſire; and concludes his Letter with new Aſſurances of his Concern for their Intereſts.

To make this appear the more friendly to them, he tells them, he had entruſted the Conſul at *Alicant* to get this Letter conveyed to them, upon ſome Pretence or other; tho' a Duplicate of it was alſo ſent to the Count of *Lecheraine*, one of the King of *Spain*'s General's before the Town, with Direction to have it ſent in as by a Deſerter, without his Knowledge. N° (58.)

Mr. *Burch*, his Lordſhip's Secretary, amongſt other Reaſons, gives this for the writing this Letter; That if the *Catalans* had a mind to accommodate, the Queen would have the Mediation; and if they had not, that then the Court of *Spain* would ſee, that her Majeſty would be always ready to ſerve them. N° (59).

But this Artifice to induce the *Catalans* to abandon their Defence in hopes of his Lordſhip's good Offices, had no effect upon Men determined to die for the Liberty of their Country.

Nothing but Force could extort that from them; and therefore Sir *Patrick Lawleſs*, in *September*, 1713. preſents a Memorial, N° (60.) to the ſame effect with what was propoſed the Month before to Lord *Lexington* in *Spain*, ſetting forth that the *Catalans* and *Majorcans* had not ſubmitted themſelves to the King's Obedience, and interrupted all Commerce and Correſpondence in the Mediterranean, and ſubmits it to the Conſideration of the Queen, not only as Guarantee of the Treaty of Evacuation, but as it concerned the Intereſts of

Great

Great Britain, and therefore his Catholick Majeſty hopes the Queen will order a Squadron of her Ships to reduce his Subjects to their Obedience, and thereby compleat the Tranquillity of *Spain*, and of the Mediterranean Commerce.

As ſoon as the Seaſon of the Year would permit, a Fleet is accordingly fitted out for the Mediterranean, under the Command of Sir *James Wiſhart*, whoſe firſt Inſtructions bear Date 28 *Feb.* and the Additional 18 *March*, 171¾. by which N° (61, & 62.) he is ordered to inforce a ſtrict Obſervance of the Treaty of Evacuation in all its Parts; upon any Complaints of the Queen's Subjects, of Interruptions of Commerce, or Depredations by the Veſſels of *Catalonia*, *Majorca*, *Sardinia*, *Naples*, and other Places, to demand Reſtitution; and in caſe of Refuſal, to make Repriſals. To repair with the Fleet before *Barcelona*, then beſieged by the Enemy, and demand immediate Payment of the Value of the Queen's Stores in the Town, or a ſufficient Security for Payment in ſome reaſonable time. To take care to time his Arrival before the Town, according to the Advices from Lord *Bingley*, then deſigned to be ſent to *Spain*; By the ſtrongeſt Repreſentations to induce the Regency of *Barcelona* to accept of the Terms that ſhall be obtained for them. To take all the neceſſary Meaſures purſuant to the Queen's Intentions to put an end to the Confuſions that now reign in thoſe Parts: And all proper Methods of Perſwaſion to induce the Inhabitants of *Majorca* to ſubmit to the Terms that ſhall be offered them; and in caſe of Refuſal, to employ his Squadron in countenancing and aſſiſting all Attempts which may be made for reducing them to a due Obedience.

It may not be improper in this Place, to take notice,

1*ſt*. That altho' the Queen had engaged her ſelf by the Treaty of Evacuation, to interpoſe her good Offices in the moſt effectual manner, to obtain the *Catalans* their Liberties, yet inſtead thereof the moſt effectual Methods were uſed to the contrary, and Mr. *Prior* acquainted Monſieur *Torcy*, that the Queen was aſſured the *Catalans* would ſubmit upon the Terms before offered by the King of *Spain*, without ſo much as mentioning their antient Privileges any more. N° (63.)

2*dly*. That the French King who had put himſelf under the ſame Obligation as the Queen, by the ſaid Treaty, after this Account from Mr. *Prior*, of the Queen's Sentiments, thought fit alſo not to ask for their Privileges; Mr. *Torcy* alſo alledging, that the King had little Intereſt with the Court of *Spain*.

3*dly*. That *Britain* was under the ſame Engagements by that Treaty, to ſupport the Privileges of *Majorca*, as thoſe of *Catalonia*, at the time Sir *James Wiſhart* had direct Orders to attack them.

4*thly*. That when theſe rigorous Meaſures were forming againſt the *Catalans*, Lord *Bolingbroke* writes word to Mr. *Prior*, 'That by what we obſerve in the *Catalan* 'Agent here, of whom we have never taken the leaſt notice as a publick Man, it is 'pretty plain that a reaſonable Accommodation might be made, as he expreſſes it, 'with that Turbulent People. N° (64.) What was called Turbulency in the *Catalans*, may appear by their Anſwer to the Duke of *Popoli*, the King of *Spain*'s General, who ſummoned them to ſurrender. They told him, they would die rather than be Slaves; but if their antient Liberties were confirmed to them, they would open their Gates, and receive him with all Gladneſs.

The Houſe of Lords expreſs'd their Concern in a publick Manner for the Miſeries of the *Catalans*, and by their Addreſs to the Queen, *April* 3, 1714. made it their moſt humble and earneſt Requeſt to her Majeſty, 'That She would be graciouſly pleas'd to continue her Interpoſition in the moſt preſſing manner, that 'the *Catalans* may have the full Enjoyment of their juſt and ancient Privileges 'continued to them.

Her Majeſty's Anſwer was, 'That at the time ſhe concluded her Peace with 'Spain, ſhe reſolved to uſe her Interpoſition upon every occaſion for obtaining thoſe 'Liberties, and to prevent, if poſſible, the Misfortunes to which that People are 'expoſed by the Conduct of thoſe more nearly concerned to help them.

Hereupon, for Form's ſake, and to allay the Indignation conceived againſt the Miniſtry by the People in general, who compaſſionated the Calamities of thoſe who fought for Liberty, the Demand of the *Catalan* Privileges is again put down in Ld *Bingley*'s Inſtructions, who was before ordered to go to *Spain*, but was never ſent.

So that the only Favour obtained from the Miniſtry by this earneſt Addreſs of the Houſe of Lords, in behalf of the *Catalans*, was an intimation ſent by Lord *Bolingbroke* to the Admiral, not to appear before *Barcelona*, nor to attack the *Majorcans*, till he ſhould hear from Lord *Bingley*, and receive Directions from *England*. And alſo a Letter from his Lordſhip to Mr. *Grimaldo*, above two Months after the Addreſs, a Letter from his Lordſhip to Mr. *Grimaldo*, above two Months after the Addreſs, tho' the Town was inveſted at the Time of making it, wherein he makes a kind and friendly Complaint, as he terms it, that the *Catalan* Privileges had not been yet granted

granted them, nor any reaſonable Terms offered, which they muſt either have accepted, or forfeited the Queen's Compaſſion, and that of the whole World.

The Admiral had alſo his Scruples, whether his Orders, couch'd in ambiguous Terms, would juſtifie him in attacking *Barcelona*. He therefore writes to Lord *Bolingbroke* and Lord *Bingley* upon it, and ſubmits it to Lord *Bingley*'s Conſideration, whether the *Catalans* might not refuſe Conditions that may be moſt advantagious, if they find he is not to act by Force; and deſires that his Orders to act before *Barcelona*, either by Force or otherwiſe, may be very plain and clear, aſſuring him that he will moſt punctually obey thoſe already given him, and ſuch as he ſhall hereafter receive.

When Sir *James Wiſhart* arrived at *Cadiz*, he gave the Governour a Liſt of the Ships under his Command for the *Mediterranean* Service, who ſent it immediately to *Madrid*; but tho' ſeveral Meſſages came from Court to the Governour during the Admiral's ſtay there, no one Compliment was made him to ſignifie his Arrival was welcome, or any Queſtion asked, about what Services he was to perform, which a little ſurprized him; that as ſoon as they had an Account at *Madrid*, of his Arrival at *Cadiz*, Mr. *Orry* was diſpatch'd to *Catalonia* with full Power to treat with the *Catalans*; ſo that, ſays he, it would appear, that tho' the King of *Spain* has all the Advantage of the Queen's Ships, as much as if they were actually before *Barcelona*, by repreſenting to thoſe People, which they very well know, our Arrival in theſe Parts, and how far we are on our way to the *Mediterranean*, yet the King would not ſeem to owe the Succeſs of ſuch Agreement to the Queen and her Ships, but to *France* only.

But this Negotiation of Mr. *Orry* failing of Succeſs, by the *Catalans* refuſing to ſubmit without having their Liberties granted them, obliged the Court of *Spain* to take more Notice than otherwiſe they were inclined to do of the Admiral, who from *Alicant* writes to Lord *Bingley*, then expected at *Madrid*, That he had received a very civil Letter from Mr. *Grimaldo*, who ſent him the King's Order for exempting the Proviſions for the Fleet from paying any Duty. He tells him, that this Exemption was uſually granted to the Admiral himſelf that commanded, but being a Trifle, he ſubmits it to his Lordſhip's better Judgment, whether the granting him this, might not be a means to prevent any Thing that might be intended by the Court at *Madrid* more to his Advantage, and leaves it to his Lordſhip's Conſideration what may be moſt for his Intereſt at that Place; and hopes by his Friendſhip to find ſome Marks of Favour from thence, in regard to his Expence in this Expedition, ſo much intended for their Service, and for which he has no allowance from home but his Pay, which will not defray half his Charges. N° (65.)

In another Letter of Sir *James Wiſhart* to Lord *Bingley*, he acquaints his Lordſhip, that tho' he had formerly deſired him to move the King of *Spain*, that the Grant of Exemption of Duties for Proviſions for the Fleet might be made to himſelf, yet upon farther Conſideration of the Matter, which is but of ſmall Moment, and may appear greater at the Court of *Spain* and *England* than really it is, he deſires his Excellency, not to take any Notice of it, but let it ſtand as it does; and deſires his Excellency's Countenance and Aſſiſtance upon any other Occaſion that the Court of *Madrid* might take to expreſs their good Will to him. N° (66.) Nor was it long before the Admiral gave the Court of *Spain* more particular Proofs that he was not unworthy of their expected Favours.

After *Barcelona* had been inveſted a conſiderable Time by the *Spaniards*, and reduced to great Difficulties for want of Proviſions, the *French* King, tho' engaged with the Queen by the Treaty of Evacuation, to employ his good Offices in the moſt effectual manner, in favour of the *Catalan* Liberties, thought fit to ſend his Troops againſt them, commanded by Marſhal *Berwick*, who opened the Trenches before *Barcelona* the firſt of *July*, O. S. 1714. And on the Eighth of the ſame Month, Sir *James Wiſhart*, in the Queen's Name, writ them a threatning Letter, N° (67.) directed to the Deputies, and others who poſſeſs'd the Government there, telling them, that Complaints had been made of their diſturbing the Commerce of the Queen's Subjects, and that they had inſolently preſumed to take, carry up, and plunder their Ships, and uſed the Men in a barbarous manner; he had therefore thought fit to ſend Captain *Gordon* with two Men of War, to repreſent to them theſe unwarrantable and preſumptuous Proceedings, and by the Queen's Command demands immediate Satisfaction for the ſame, and the Puniſhment of the Officers of the Ships with the utmoſt Severity. If this be not punctually complied with, he leaves it to themſelves to judge what the Conſequences may be.

The Deputies returned Anſwer, N° (68) that only one of thoſe Veſſels mentioned in Captain *Gordon*'s Memorial, was taken by them into *Barcelona*, being laden with Salt, for which they paid the Price immediately to the Captain of it; that being beſieged, they thought they might do ſo with Juſtice, and by the

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'Law of Nations; that they were far from living like Pirates, as their Enemies 'ſuggeſted in order to diſtreſs them, by preventing any ones coming with Provi- 'ſions for their Relief; that what *Engliſh* Veſſels had entred their Port with Provi- 'ſions, had been well treated, and had freely ſold their Merchandize, and at a 'higher Price than they could have got any where elſe; that they had paid them 'with their beſt ſort of Money, and to all their Satisfactions; that they had that 'Day publiſhed an Order, forbidding upon Pain of Death any of their Ships to 'moleſt any *Engliſh*, even tho' they were going with Proviſion to the Enemy.

'They hope his Excellency will be ſatisfied with their Conduct, which is con- 'formable to the Rights of People that are beſieged; aſſuring him, that when they 'ſhall know of any of their Ships, either with Commiſſion, or without, that ſhall 'have cauſed the leaſt Damage to any *Engliſh*, they will not only immediately in- 'flict a Rigorous Puniſhment, but repair all the Damage, deſiring to live in the good 'Correſpondence they have had with his noble and generous Nation, with the ut- 'moſt Deference for the Queen, and ready to obey his Excellencies Orders with 'all Affection and Reſpect.

The Government of *Barcelona*, in their Extremity writ another Letter to the Admiral, dated *July* 23, N° (69) ſetting forth, 'That his Excellency very well 'knew that the Engagements *Catalonia* entred into to receive *Charles* the Third for 'their King, was founded on the Protection of the High Allies, but moſt particu- 'larly of *England*, without which they were not capable of undertaking ſo great an 'Enterprize. That they had for ſeven Years together endeavoured to ſerve the '*Engliſh* Nation in every Thing it was poſſible for them to do, by contributing 'Troops and conſiderable Sums of Money without Intereſt. And tho' they had 'pleaſed themſelves with the Thoughts of the Happineſs to be always Subjects of '*Charles* III. yet by the ordinary Change to which Human Affairs are liable, they 'now ſee the Troops of the Duke of *Anjou* aided by the *French*, Maſters of all the 'Principality except *Barcelona* and *Cardona*, committing through the whole the moſt 'execrable Hoſtilities, Burnings and Plunderings, without ſparing the Effuſion of 'innocent Blood, and without Diſtinction of Age or Sex.

'That for a Year together the Enemies Army had oppreſſed *Barcelona* by Sea and 'Land, making them continually ſuffer the Calamity of ſo long a Blocade; during 'which Time the Enemies have thrown Fourteen Thouſand Bombs into the Town, 'which have ruined the greateſt part of the Houſes; that now they expect to be at- 'tacked in Form, and that in Twenty four Hours the Town will be batter'd in 'Breach. They cannot expreſs their Affliction, to ſee the Danger of the Inhabitants 'expoſed to be the Victims of that Cruelty with which the Enemy threatens to treat 'them. Having no Comfort left, they fly to the Queen of *Great Britain*, beſeech- 'ing Her Protection by the incloſed Letter to *Don Dalmaſes*, their Envoy at *Lon- 'don*; and in the mean Time, till an Anſwer can come, they beſeech his Excellency 'from their Souls to mediate with the *French* Troops who oppreſt them, for a Suſ- 'penſion of Arms, ſince the Congreſs at *Baden* now ſitting to conclude of a General 'Peace, may ſtill determine this Affair; they doubt not that his Mediation will be 'able to procure them this Relief, ſince his Squadron is ſuperior to that of the Ene- 'my. They ſee no other Remedy in Nature for their Misfortunes, and therefore 'hope his Excellency will not refuſe them, that if *Catalonia* has merited any Thing 'by its Services, and by its Conjunction with the *Engliſh* Nation, this is the Time 'to receive the Fruits of it; that it is worthy of his Excellency to comfort the 'Afflicted, and not to deny them this Favour in their great Neceſſity.

How the Admiral was affected with this Letter may appear by one of his to Lord *Bingley*, dated *Aug.* 7. N° (70), wherein he acquaints him, 'That Mr. *Grimaldo* had 'ſignified to him from the King of *Spain*, that all the King's Ships of War being 'employ'd before *Barcelona*, his Majeſty could not ſend any of them to meet his 'Flota then coming home; and therefore deſired the Admiral to ſend three of his 'upon that Service", which was accordingly complied with. Of this he had acquain- ted Lord *Bolingbroke*, and hoped to meet with her Majeſty's Approbation.

The *Catalans* thus abandon'd, and given up to their Enemies, contrary to Faith and Honour, were not however wanting to their own Defence, but appealing to Heaven, and hanging up at the High Altar the Queen's ſolemn Declaration to protect them, underwent the utmoſt Miſeries of a Siege, during which, what Multitudes periſhed by Famine and the Sword? how many have ſince been executed? and how many Per- ſons of Figure are ſtill diſperſed about the *Spaniſh* Dominions in Dungeons, is too well known to need any Relation.

It is hoped however, that the Calamities of the *Catalans*, will not be imputed to *Great Britain* in general, abuſed by the Miniſtry, with repeated Aſſurances, that every thing was doing for the Preſervation of that unfortunate People. The

The Committee find frequent Notices and Mention made of the Abbot *Gaultier*, who, altho' he does not appear to have had any publick Character, reſided in *England* during the greateſt part of this Negotiation, and upon extraordinary Occaſions, was very often ſent backward and forward.

But this Share that he had in the more publick Tranſactions, was not his only Buſineſs. It is evident, that ſome Negotiations, which required more than ordinary Privacy, were verbally tranſacted, and upon all ſuch Occaſions, Abbot *Gaultier* was the Perſon to whom the *French* and *Engliſh* Miniſters mutually referr'd each other.

And as of Neceſſity nothing could be a greater Secret than all Matters relating to the Pretender, this Province was particularly allotted to Abbot *Gaultier*, that thro' his Hands, and under his Conveyance, by *French* Couriers going continually betwixt *France* and *England*, ſuch Practices might be carried on with great Safety, which in any other manner had been too dangerous an Undertaking.

The firſt Time that any ſecret Negotiation is expreſſly refer'd to Abbot *Gaultier*, is found in a Letter already taken Notice of, where Mr. *St. John*, *March* 4. 1711-12. tells Mr. *Torcy*, 'He had deferr'd writing to him of late, till he might write with certainty, till 'the neceſſary Diſpoſitions were made among our People at home, and till the Queen 'had taken the only Reſolution which could bring us in a ſhort time to a good and ſolid 'Peace. I have now the Satisfaction to tell you, that this Reſolution is taken, and that 'Mr. *Harley* will carry with him this Night, or to Morrow Morning, the final Inſtruc-'tions of the Queen to her Plenipotentiaries. I refer myſelf to Mr. *Gaultier*, to explain 'to you more at large the Subject of this Gentleman's Commiſſion, and what the Queen 'hopes his moſt Chriſtian Majeſty will do to co-operate with her.

The Committee having obſerved, at the Beginning of this Report, that ſeveral Letters and Papers are wanting, which by the Circumſtances of Time and Matters then depending, appear to be of Moment and Conſequence: It is not to be expected, that thoſe who have been ſo careful to ſuppreſs Matters of leſs Importance, would leave behind them any Tranſactions that might tend openly and directly to favour and ſupport the Cauſe of the Pretender.

But as the Committee has obſerv'd ſeveral Paſſages which are a plain Indication of the Tenderneſs and Regard with which the Cauſe and Perſon of the Pretender were treated, as often as mention'd; They have thought fit to bring them together, and lay them before the Houſe in one View.

Vol. 8. *fol.* 24. There is a Paper that was left in Lord *Bolingbroke's* Cloſet, dated at *Verſailles*, the 24*th* of *September*, 1711. endors'd, as other Office-Papers uſually are. It gives an Account, that the Pope's Nuntio had in his laſt Audience of the King made the following Declaration. 'The Court of *Rome* being fully inform'd, that *France* was endeavouring to procure a 'Peace upon the moſt advantagious Terms that was poſſible, and being perſwaded, that if 'the Peace ſhould be made, *England* would not ſuffer that the King of *France* ſhould per-'mit the Prince of *Wales* to continue in his Realms; the Court of *Rome* offers to the 'King of *France* to give this Prince an *Azylum* at *Rome*, or in any other Part of the Eccle-'ſiaſtick Dominions.

Vol. 3. To which the King of *France* return'd in anſwer, 'That an *Azylum* for the Prince of '*Wales* would be no Obſtacle to the Peace. That if the Allies did truly deſign to make 'a Peace, he would accept of any reaſonable Propoſitions they ſhould make; and in this 'Caſe an Article for the Prince of *Wales* would be inſerted in the Treaty.

June 7. 1712. The Biſhop of *Briſtol* giving an Account to Lord *Bolingbroke* of ſome Diſcourſe he had with ſome of the Miniſters of the Allies, ſays, 'Monſieur *Conſbruck*, one of 'the Emperor's Plenipotentiaries, kept alſo within the Terms of Decency, ſave only that 'he took it for granted, that one great End of all this Management on our part, was to 'bring in the Pretender; which Apprehenſion one of the Miniſters of the States lately 'own'd in private Diſcourſe, to have been the fundamental Reaſon of all their Conduct of late.

It cannot be forgot what great Streſs and Weight was laid upon the Removal of the Pretender out of the Dominions of *France*. This was what all the Nation with great Juſtice expected, and what the Queen declared was taken Care of, as an additional Security to the Proteſtant Succeſſion.

But his removing out of *France*, and being permitted to reſide in *Lorrain*, was not only a great Surprize to all the Nation, but was received with ſuch juſt Indignation, that the Parliament addreſs'd the Queen upon this Occaſion, 'That ſhe would inſiſt upon his Re-'moval from *Lorrain*, that Reſidence being equally or more dangerous to *Great Britain*, 'than his Abode in *France*'. Her Majeſty's Anſwer, *That ſhe would repeat her Inſtances*; occaſion'd in the Houſe of Lords a becoming Reſentment, that the Duke of *Lorrain* ſhould preſume to receive and entertain the Pretender to her Majeſty's Crown, in Defiance to her Majeſty's Application to the contrary. But it will now appear in what Manner the Removal of the Pretender out of *France* was tranſacted and ſettled, and that his reſiding in *Lorrain* was not only with the Approbation, but even by the Direction and Appointment of the *Engliſh* Miniſtry. Mr. *St. John*, in his Letter to Mr. *de Torcy*, of the 24*th* of *May*, 1712. *O. S.* when he ſent him over the Conditions upon which her Majeſty would make thoſe Important and Deciſive Declarations to Parliament, concludes that Letter with ſaying, 'He hopes, that, with the general Repoſe we ſhall ſee reviv'd in a few Weeks, a good 'Underſtanding between two Nations, which may become to each other the moſt 'uſeful Friends, for the ſame Reaſons they have been the moſt formidable Enemies. The 'Queen commands me to tell you, that ſhe hopes when you ſend an Anſwer to this Letter, 'we ſhall have an Account that the Chevalier had begun his Journey.

In

In Answer to this, Monsier *de Torcy* says to my Lord *Bolingbroke*, (*) 'You may assure the Queen that the Chevalier is ready to depart at a Moments Warning, if 'he did but know where he was to go, and in what Place he might be in Safety. 'I own to you, that I know no Prince who is willing to receive him, for Fear of 'displeasing the Queen, or other Powers; it will be absolutely necessary, that 'there should be some Explanation upon this Subject, which I desire you to make 'to me by the Abbot *Gualtier*, if you do not judge it proper to do it your self.

Mr. *St. John* on the 6th of *June*, 1712. *O. S.* writes a publick Letter (*a*) in answer to the several Points contain'd in Monsieur *de Torcy*'s last Letter; but in that Letter takes no Notice at all of the Chevalier.

But the Day after, *June* the 7th, 1712. he writes a private Letter, as he calls it himself, to Monsieur *de Torcy*, and concludes it with saying, 'The Abbot *Gual*-'*tier* will write to you upon the Subject of the Chevalier (*b*).

The Committee observe, there are two Copies of this private Letter, One deliver'd by my Lord *Bolingbroke*, the Other entred in Lord *Strafford*'s Book: And in the Copy of this Letter given in by Lord *Bolingbroke*, this Passage, That Abbot *Gualtier* shall write about the Chevalier, is omitted by his Lordship.

On the 22d of *June*, 1712. *N. S.* Monsr. *de Torcy* writes Two Letters (*c*) to my Lord *Bolingbroke*. In the Publick Letter nothing is said of the Pretender; the Private Letter concludes with saying, 'I have the Honour to send you a Letter un-'der the King's Hand, for Her *Britannick* Majesty; and I refer you to what the 'Abbot *Gualtier* shall say to you, about the Departure of the Chevalier.

On the 21st of *August*, 1712. Lord *Bolingbroke* being then in *France* to give the finishing Stroke to all Matters of Consequence that were undetermin'd, (*d*) in his Dispatch to the Earl of *Dartmouth*, giving an Account of his Proceedings at the Court of *France*, says, The Chevalier has fix'd his Departure for the First of next Month, *N. S.* They propose that he shall retire to *Bar*, and they intend to write to the Duke of *Lorain* to ask of the Emperor, and other Princes, a Security for his Person, during his Residence in that Place.

But on the 28th of *December*, 1712. *N. S.* it appears, (*e*) that the Chevalier was still in *France*, upon which Account Mr. *Prior* writes thus to my Lord *Bolingbroke*. 'Another Point upon which this Court is very solicitous, is, That the Chevalier 'remaining in any Town of *France* obstructs the Signing the Peace; yet he can-'not go to *Lorain* till the Emperor's Passports will secure him there. Your Lord-'ship, by the Perusal of the Papers, will see the State of that Case; and I have 'only to add upon this Subject, that the Court of *France* expresses an Impossibili-'ty on their Side, to do more than they have done, and hopes we should have 'Interest enough with the Emperor, to obtain such Passports from Him, as may 'secure, as well the Person who is to go into *Lorain*, as the Duke of *Lorain*, who 'is to receive him.

Mr. *Prior* on the 29th, writes to the same Effect (*f*) to my *Lord-Treasurer*, and says, 'The Monarch is a good deal troubled upon this Head, lest the Young 'Man should fall into the Hands of the *Hussars* or *Barbarians*. And Monsr. *D'Au*-'*mont* has, I presume, Orders to speak to our Ministry upon it.

'As to the Dowry, I shall not only be dunn'd to Death, but hang'd; for the 'Dowager sends Messengers to me, which you in *England* do not think it ex-'tremely lawful to receive: But if it is to be paid, pray let it be done in an 'handsome Manner, that may shew the Charity of the Queen, and the Genero-'sity of Her *Lord-Treasurer*.

The Papers referr'd to in Mr. *Prior*'s Letter, contain an Account of what the Duke of *Lorain* had done at the Desire of the King of *France*, to obtain from the Allies the necessary Safeguards for the Chevalier. He says, (*g*) that understanding that the Queen of *Great-Britain* had already granted Her Safeguard or Protection to the Chevalier *de St. George*, He believ'd they had no more to do, but to apply to the Emperor, and to the States-General.

By this Account it is evident, that Abbot *Gualtier* was the Person entrusted to Manage the Affairs of the Pretender, with whom such Practices were Verbally transacted as our Ministry did not think proper to commit to Writing. It appears, that the Place to which he was to go, because no body would receive him at the hazard of the Queen's Displeasure, and where he might remain in Safety, was to be prescrib'd from *England*. That this was not fix'd and determin'd till Lord *Bolingbrooke* went into *France*. And if his Lordship's Instructions are consider'd, it will be hard to find in them any thing of that Importance and Se-

(*) June 10. (*a*) Vol. 8. f. 370. (*b*) Ditto f. 374. (*c*) Vol. 8. f. 434. (*d*) Vol. 8. f. 487. (*e*) Vol. 9. f. 445. (*f*) Vol. 9. f. 493. (*g*) Vol. 9. f. 485.

crecy, as to require his going in Perſon to ſettle it. His Lordſhip gives an Account from thence, that the Pretender was to go to *Bar*, and this is acquieſc'd in here without the leaſt Objection made. The Miniſtry are told by Mr. *Prior*, that the Court of *France* hopes by our Intereſt ſuch Paſsports would be procur'd as might ſecure his Perſon: And in the Paper ſent to *France* from the Duke of *Lorrain*, it is aſſerted, that the Queen of *Great-Britain* had already granted Her Protection to the Pretender.

But *November* the 6th, 1713. Lord *Bolingbroke* writes to Mr. *Prior*, and ſays, Her Majeſty having repeated to the Duke of *Lorrain* the Inſtances which you know have been ſo often made to the Moſt Chriſtian King, for removing of the Pretender to Her Crown out of his Dominions, I am directed to acquaint You therewith, that You may ſpeak to the Miniſter of *Lorrain*, and to any other Miniſter whom you ſhall think proper, and let them know it is abſolutely inconſiſtent with the Amity and good Correſpondence that is between the Queen and their Maſters, to receive into their Dominions, or to protect a Perſon, who diſputes Her Majeſty's moſt undoubted Title, and thereby endeavours to diſturb the Peace and Quiet of Her Kingdoms. That you may be able to ſhew them that this is the Collective Senſe of the whole Nation, as well as the Queen's Command to you, I herewith ſend you the Addreſſes of both Houſes of Parliament.

This can be underſtood as no more than a bare Compliance with the Addreſſes of Parliament. And to ſhew how little Reſentment and Indignation was conceiv'd againſt the Duke of *Lorrain* for this Indignity offer'd to Her Majeſty, the Committee has thought fit to Tranſcribe a Letter that was wrote by Lord *Bolingbroke* to Mr. *Prior* within Four Days after his laſt mention'd Letter upon the Subject of the Pretender.

This Letter, ſays Lord *Bolingbroke* to Mr. *Prior*, will be delivered to you by the Baron *de Forſtner*, who has been twice at our Court with the Character of Envoy from the Duke of *Lorrain*, and who is extremely well with your Friends on this ſide of the Water, that I make no doubt but that he will be a welcome Acquaintance to you. I muſt at the ſame time recommend the Intereſt of the Duke of *Lorrain* his Maſter to your Care. You know, Sir, how little that Prince has yet felt the good Effects of what was ſtipulated for him at *Ryſwick*. You know, Sir, how juſtly he pretends to an Equivalent from this Emperor for the *Montferrat*, which was given away from him to the King of *Sicily*. In a word, you are enough appriz'd of his Wants, of his Expectations, and of Her Majeſty's earneſt Deſire, if by any means ſhe can, to contribute to the Eaſe, and to the Advantage of a Prince, who deſerves much better Uſage than he has on many Occaſions met with.

There are ſeveral other Letters that were wrote after the Addreſs of Parliament to preſs the removing of the Pretender from *Lorrain*; but after what has been ſaid, 'tis needleſs to obſerve what little Effect was to be expected from ſuch Repreſentations made in the ſeveral Courts of *Europe*, which were known to be Contradictory to the Senſe and Intention of the Court of *Great-Britain*. And if any further demonſtration was wanting to ſhew their true Spirit and Inclination, it may be obſerv'd that the Addreſſes in Parliament were made in *July*, 1713. And the firſt Letter that Lord *Bolingbroke* wrote in purſuance of thoſe Addreſſes was the 6th of *November*, which was Four Months after the Addreſſes were preſented to the Queen.

The Committee think it not improper to inſert here an Extract of a Memorial touching the Demolition of the Sluices of *Dunkirk*, deliver'd by Monſieur *de Torcy* to Lord *Bolingbroke* at *Paris*, in *Auguſt* 1712.

'It is not our Buſineſs now to examine whether the Queen of *England*, and 'the *Engliſh* Nation, were in the right to demand the Demolition of the Fortifi'cations, and the filling up the Harbour of *Dunkirk*. That is a Thing reſolv'd 'and agreed upon. It may perhaps come to paſs in the Courſe of this Affair, 'for Reaſons eaſily to be foreſeen, That *England* ſhall repent having demanded 'the Demolition of a Place, and the Deſtruction of an Harbour, which might 'be of great Uſe in Conjunctures which perhaps are not very remote.

Your Committee do not take upon them to explain what Conjuncture *France* had in View, and which they thought not very remote, when *Dunkirk* might be of particular Service; but think it proper to conclude this part of the Report with obſerving, That the Pretender did immediately upon the Demiſe of the late

Queen

Queen publiſh a Declaration, which the Duke of *Lorain* has acknowledg'd in his Letter of the 6th of *December*, 1714. that he receiv'd from the Pretender himſelf, wherein is this remarkable Paſſage, 'Yet contrary to Our Expectations upon the 'Death of the Princeſs Our Siſter (of whoſe good Intentions towards Us We 'could not for ſome Time paſt well doubt; and this was the Reaſon we then ſat 'ſtill, expecting the good Effects thereof, which were unfortunately prevented 'by Her deplorable Death) We found that Our People, inſtead of taking this fa- 'vourable Opportunity of retrieving the Honour and true Intereſt of their Coun- 'try, by doing Us and Themſelves Juſtice, had immediately Proclaim'd for their 'King a Foreign Prince, to Our Prejudice, contrary to the Fundamental and In- 'conteſtable Laws of Hereditary Right, which their pretended Acts of Settle- 'ment can never Abrogate.

The Committee obſerving in the Eleventh Volume referr'd to them, a Letter from the Earl of *Oxford* and *Mortimer*, then Lord High-Treaſurer of *Great-Britain*, to the Queen, dated *June* the 9th, 1714; together with an Account of Publick Affairs from *Auguſt* the 8th, 1710, to *June* the 8th, 1714, all written with his own Hand, and ſent to the Queen with the Letter; and finding therein many Paſſages, in their Opinion, highly deſerving the Conſideration of this Houſe, have thought it neceſſary to inſert the ſame here at large, and are as follow.

Lord *Oxford*'s Letter to the Queen, *June* the 9th, 1714.

May it pleaſe Your Majeſty,

'I Preſume, in Obedience to Your Royal Commands, to lay before Your Ma- 'jeſty a State of Your Affairs. Though I have very much contracted it from the 'Draught I made, and the Vouchers from whence it is taken; yet I find it ſwell 'under my Pen in Tranſcribing, being willing to put every Thing before Your 'Majeſty in the Cleareſt Light my poor Underſtanding can attain to. It was ne- 'ceſſary to lay it before Your Majeſty in the Series of Time, from the beginning 'to this preſent Time; and when that is compleatly laid before You, it remains 'only for Me to beg God to direct Your Majeſty.

'And as to my ſelf, do with me what You pleaſe, place me either as a Figure 'or a Cypher, diſplace me or replace me, as that beſt ſerves Your Majeſty's Oc- 'caſions, You ſhall ever find me, with the utmoſt Devotion, and without any 'Reſerve,

MADAM,

Your moſt Dutiful, moſt Faithful, moſt Humble,
moſt Obedient Subject, and Unworthy Servant,
OXFORD.

A Brief Account of Publick Affairs ſince Auguſt *the* 8th, 1710. *to this preſent* 8th *of* June, 1714. *To which is added, The State of Affairs Abroad, as they relate to this Kingdom; with ſome humble Propoſals for ſecuring the future Tranquility of Her Majeſty's Reign, and the Safety of Her Kingdoms.*

HER Majeſty on the 8th of *Auguſt* 1710, was pleas'd to alter Her Treaſury, and two Days after, in a New Commiſſion, *Robert Harley*, by Her Majeſty's great Favour was made Chancellor of the *Exchequer*.

The State of Affairs at Home and Abroad are freſh in every ones Memory.

The Condition of the Treaſury at that Time was laid before Her Majeſty in a large Repreſentation.

I beg leave to touch ſome few Heads. The Army was in the Field; no Money in the Treaſury; none of the Remitters would Contract again; the Bank had refuſ'd to lend a Hundred Thouſand Pounds to Lord *Godolphin* on very good Security; the Navy, and other Branches of Service, Eleven Millions in Debt, which enhanc'd the Price of every Thing proportionably; the Civil Liſt in Debt about Six Hundred Thouſand Pounds, and the Yearly Income too little for the Currant certain Expence, by the loweſt Computation, One Hundred Twenty Four Thouſand, Four Hundred Ninety Five Pounds, Two Shillings and Four Pence.

In

'In a few days this new Commiſſion made Proviſion for paying the Army by 'the greateſt Remittance that had ever been known: Though the Oppoſition from 'every Office, which was full of Perſons who were Enemies to the Change made 'by the Queen, was very ſtrong, and very troubleſome and vexatious; and ſuch 'was the Situation of Affairs, that nothing but great Patience could ever have 'overcome theſe Difficulties; it being impoſſible as well as unavoidable to make 'Removes, but by degrees.

'As ſoon as it was poſſible, (and notwithſtanding the Clamours then rais'd, it 'was the only proper Time) a new Parliament is call'd.

'Its firſt meeting was *November* the 27th, 1710. *Robert Harley* had prepar'd the 'Funds ready (before the Parliament met, as he has done every Seſſion to this 'Day) not only for the Current Service of the Year, both by Sea and Land, but 'alſo for eaſing the Nation of above Nine Millions of Debt. This was thought ſo 'Chimerical when *Robert Harley* did begin to open it, that it was treated with Ri-'dicule, until he ſhow'd how practicable it was. It is true, this gave great Reputa-'tion Abroad, and enabled to treat advantageouſly of a Peace: It rais'd ſinking 'Credit at home, but at the ſame time as it drew Envy upon *Harley* from ſome, 'and the Rage of others, ſo it gave Offence to ſome of his Fellow Servants, who 'told him plainly that he ought to have told his Secret, and if he would not get 'Money himſelf, he ought to have let his Friends ſhare a Hundred Thouſand 'Pounds, which would not have been felt or found out in ſo vaſt a Sum as Nine 'or Ten Millions.

'To this Principle was owing the ſetting on Foot at this time the unhappy 'Voyage to *Canada*: To all which Meetings *Harley* avoided coming, and gave Lord '*Rocheſter* his Reaſons, and after he deſir'd his Lordſhip to be a Means to the 'Queen to hinder that Expedition; but it happen'd to be too late. But Lady '*Maſham* knows how much *Harley* was concern'd at it, tho' he did not know the 'true Spring of that Voyage, which will appear after in this Paper.

'The beginning of *February* 1710-11, there began to be a Diviſion amongſt thoſe 'call'd Tories in the Houſe, and Mr. Secretary St. *John* thought it convenient to 'be Liſting a ſeparate Party for himſelf.

'To prevent this, Lord *Rocheſter* and *Harley* deſir'd to have a Meeting, and to 'cool ſuch Raſh Attempts; and it was contriv'd Mr. Secretary St. *John* ſhould in-'vite Us to Dinner, (which was the laſt time he ever invited *Robert Harley*, being 'now above Three Years) where was Duke of *Shrewsbury*, Earl *Poulet*, Lord *Ro-'cheſter*, and others; and Lord *Rocheſter* took the pains to calm the Spirit of Diviſi-'on and Ambition.

'*Harley* was at this time ſeiz'd by a violent Fever, and on his firſt coming Abroad, '*March* 8. met with a Misfortune which confin'd him many Weeks. The Tranſacti-'ons during that Time are too publick, as well as too black, for *Harley* to remem-'ber or to mention.

'In the end of *May* 1711. the Queen, out of her abounded Goodneſs, was 'pleas'd to confer undeſerv'd Honours on *Robert Harley*; and on the 29th of the 'ſame Month, was pleas'd to put the Treaſurer's Staff into his Hands: A Poſt ſo 'much above *Harley*'s Abilities to ſtruggle with, that he had nothing but Integrity 'and Duty to recommend him to Her Majeſty's Choice; ſo he muſt have recourſe 'to Her Majeſty's Tranſcendent Goodneſs and Mercy to Pardon all his Faults and 'Failings, both of Omiſſion and Commiſſion, during the whole Courſe of his 'Service.

'But to return and reſume the Thread of this Diſcourſe. (*a*) The 4th of *June* '1711. Three Days after the Treaſurer was Sworn, he was ſurpriz'd with a Demand 'of Twenty Eight Thouſand Thirty Six Pounds and Five Shillings, for Arms and 'Merchandize, ſaid to be ſent to *Canada*. When the Treaſurer ſcrupled this, 'Mr. Secretary St. *John*, and Mr. *Moor* came to him with much Paſſion upon this 'Affair; and about a Fortnight after, the Secretary of State ſignified the Queen's 'poſitive Pleaſure to have that Money paid; and accordingly Her Majeſty ſign'd a 'Warrant *June* 21. and the Treaſurer not being able then, with all his Precauti-'on, to diſcover further Light, the Money was paid *July* the 4th 1711.

'Since the Return from that Expedition, the Secret is diſcovered, and the 'Treaſurer's Suſpicion juſtified: For the Publick was cheated of above Twenty 'Thouſand Pounds.

'There is Reaſon to be more particular upon this Head, becauſe it is one of 'the Things never to be forgiven the Treaſurer; and Lord Chancellor told

'him

(*a*) See the Paper of this Affair at large.

him more to that Purpoſe; that they told him no Government was worth ſerving, that would let them make thoſe Advantages, and get ſuch Jobbs.

'One thing more is crav'd leave to be added, That the Treaſurer was forc'd 'to uſe all his Skill and Credit to keep the Houſe of Commons from examining 'this Affair laſt Parliament.

'*June* the 12th. 1712. The firſt Seſſion of laſt Parliament ended.

'From this time, to the beginning of the next Seſſion, *the Treaſurer's Hands were 'full of Negotiating the Peace in all Courts abroad*; and beſides the ordinary and ne-'ceſſary Duty of his Office at home, he had frequent Occaſion of Calming the 'Quarrels and Grudges Mr. Secretary had ſometimes againſt Lord *Dartmouth*, ſome-'times againſt Lady *Maſham*, and ſometimes againſt the Treaſurer himſelf.

'The Second Seſſion of the laſt Parliament began *December* the 7th, 1711.

'This was attended with great Difficulties and Dangers, as well from the Practi-'ces of the Diſcontented here, as the Deſigns carry'd on by Mr. *Buys*, Prince *Eu-'gene* and *Bothmar*; in which Deſigns concurr'd the Emperor, and other States and 'Princes who gain'd by the War.

'This put Her Majeſty under a ſort of Neceſſity to preſerve the Whole, and to 'take a Method which had been us'd before *to Create ſome New Peers*.

'So many having been brought formerly out of the Houſe of Commons of thoſe 'who us'd to manage Publick Affairs, it was propos'd to Mr. Secretary, That if he 'would be Contented to ſtay in the Houſe of Commons that Seſſions, Her Majeſty 'would have the Goodneſs to Create him a Peer, and that he ſhould not loſe his 'Rank.

'The Second Seſſion ended the 21ſt of *June*, 1712; and notwithſtanding *Both-'mar*'s Memorial, and all other Attacks both from Abroad and at Home, Supplies 'were provided, and every Thing relating to the Publick put upon a good Foot, 'and the Malecontents began to deſpair, as appear'd by the Duke of *Marlborough* 'retiring Abroad, and other Particulars.

'After the Seſſion was ended, the Queen, as She had promis'd, Order'd a War-'rant for Mr. Secretary *St. John* to be a Viſcount; this happen'd to put him in the 'utmoſt Rage againſt the Treaſurer, Lady *Maſham*, and without ſparing the 'Greateſt.

'(*a*) It did avail very little to tell him how much he had got in Place; for had he 'been Created with the other Lords, it would have fallen to his ſhare to have come 'next after Lord *Trevor*; but the *Treaſurer* with great Patience bore all the Storm, 'of which Lord *Maſham* was often a Witneſs of the Outragious Speeches; and 'Mr. *Moor* very lately told the *Treaſurer*, that Lord *Bolingbroke* ſaid very lately to 'him, that he ow'd him a Revenge upon that Head.

'This Diſcontent continued, until there happen'd an Opportunity of ſending him 'to *France*; of which there was not much Occaſion; but it was hop'd, that this 'would have put him in good Humour; which it did, until in *October* 1712, there 'were Knights of the Garter made. This created a new Diſturbance, which is 'too well remembred, and breaks out now very often in Outrageous Expreſſions 'publickly againſt all then made.

'In *November*, on the Death of Duke *Hamilton*, he was much againſt Duke *Shrewſ-'bury*'s going, for Reaſons very plain, which then were in Negotiation; for before 'the laſt Seſſion of that Parliament began, a new Model was fram'd, or a Scheme 'of Miniſtry; which how they afterwards came to fall out, will appear in its due 'Place.

'The Third and Laſt Seſſion began *April* the 9th, 1713; which was as ſoon as 'the Peace was Concluded, and could be Proclaim'd.

'It is not decent to take Notice, *That during this whole Negotiation, the Treaſurer 'was obliged by his own Hand, and his own Charge, to Correſpond in all the Courts con-'cern'd in the Negotiation; and very often he had the good Luck to ſet Right ſeveral Mi-'ſtakes, and to obtain ſome Things very little expected; but the only Merit of this belongs to 'Her Majeſty, the Credit of whoſe Favour brought it about, and gave Power to the Treaſurer 'to act with Succeſs.*

'During this Seſſion, the Lords of the Cabinet, and Others, met every *Satur-'day* at the Treaſurer's, in Order to carry on the Queen's Buſineſs, as they had done 'the Year before on *Thurſdays*. (*b*) Many Offers were made, and repeated by the 'Treaſurer, in order to attack former Offenders, and quiet the Minds of the Gen-'tlemen, and of the Church-Party; and the only Reaſon for this Failing, was, be-

(*a*) See the Letters of Monſieur *Torcy*. (*b*) See the Letter *July* 25.

cauſe of the Project laid for their New Scheme, and putting themſelves at the Head, as they call'd it, of the Church-Party.

This being the laſt Seſſion of Parliament, and ſome Gentlemen fearing their Elections, and ſome for other Reaſons, dropt the Bill of Commerce.

The Treaſurer ſaw this Opportunity, and immediately took it, and prevail'd with Sir *Thomas Hanmer*, and Others, to come into the Payment of the Civil Liſt Debts, incurr'd before the Change of the Treaſury, tho' the preſent Treaſurer was rail'd at, and malign'd; which he choſe to bear patiently, rather than own the true Reaſon, that there was no Money to do it with, which would have ruin'd all at once.

This Step of paying the Debts, put the Malecontented into the utmoſt Rage, which they did very publickly expreſs in both Houſes.

This laſt Seſſion of that Parliament, and the Third ſince the Change of the Miniſtry, ended *July* the 16th, 1713.

The Peace with *France* being over, and it growing neceſſary to put Her Majeſty's Affairs into a further and more ſettled Regulation, and to eaſe the Treaſurer of the Burthen, as well as Envy, of ſuch a Bulk of Buſineſs; Her Majeſty was pleas'd to approve of the Scheme of the Duke of *Ormond*'s ſtaying here to attend the Army Affairs, which was neceſſary at the time of Disbanding; Duke *Shrewſbury* to go to *Ireland*, upon his Return from *France*; Lord *Findlater* to be Chancellor of *Scotland*; Lord *Mar* Third Secretary; Lord *Dartmouth* Privy-Seal, and Mr. *Bromley* Secretary of State, and Sir *William Wyndham* Chancellor of the Exchequer. I am ſure the Queen very well remembers the Rage this caus'd, as perfectly Defeating their Scheme, and ſhewing that Her Majeſty would put her Affairs upon a ſolid Foot; the Lord Chancellor ſaid it was againſt Law, and to this Day will not treat Lord *Findlater* with Decency; and Lord *Mar* has met with many ill Treatments as well as Mr. Secretary *Bromley*.

But that the Treaſurer might leave them without Excuſe, and make Her Majeſty's Affairs, if poſſible, eaſy with and to thoſe in Her Service; as ſoon as he was recover'd enough to write, he wrote a large Letter to Lord *Bolingbroke*, containing his Scheme of the Queen's Affairs, and what was neceſſary for Lord *Bolingbroke* to do, as belonging only to his Province. This Letter was dated *July* the 25th, 1713, and was Anſwer'd *July* the 27th, by Lord *Bolingbroke*; the Copy was ſhown to Lady *Maſham*, who came to Viſit the Treaſurer then Confin'd to his Chamber; and ſhe then thought it was a very good One, and what was proper for the Occaſion. I believe the Whole would be of Uſe to give Light to Her Majeſty into the Ground and Foundation of the Follies and Madneſs which have ſince appear'd; the Whole is ready for Her Majeſty's Peruſal when She pleaſes.

In this Letter the Treaſurer gives an Account to Lord *Bolingbroke* of the Occaſions, or rather the Pretences for giving Diſturbance to the Queen's Servants. He propoſes the Remedy, and what was requiſite to be done by him as Secretary in his own Province, and alſo Aſſurance of the Treaſurer's Aſſiſtance to the utmoſt, and of his Deſire to conſult with him (Lord *Bolingbroke*) how to Unite the reſt of our Friends.

Being then Sick, the Treaſurer took the Liberty to put Lord *Bolingbroke* in mind of the ſeveral Particulars which then requir'd Diſpatch, and were ſolely belonging to his Province, without any other Interpoſition than that of taking Your Majeſty's Direction.

Amongſt others, that of a Circular Letter upon the Addreſſes of both Houſes relating to the Pretender.

This was not done in Three Months. His Lordſhip wrote Word it was done *July* the 27.

In the ſame Letter the Treaſurer propos'd, that (according to the Treaty of Peace) Care ſhould be taken of the following Particulars, *viz. Newfoundland*, *Hudſon's-Bay*, *Acadia*, St. *Chriſtophers*, *Aſſiento*, and other Things contain'd in the Treaties of Commerce.

Theſe Particulars the Treaſurer thought to have been executed, until within a few Weeks he heard the contrary by Accident, and that the Time in the ſeveral Treaties was elaps'd. Upon this, the Treaſurer on *Wedneſday*, *June* the 2d, told Mr. *Moor* of this, and that every Body would be liable to blame who are in the Queen's Service. *Thurſday*, *June* the 3d, 1714. Lord *Bolingbroke* writes to the Treaſurer a Letter which begins thus.

'Mr. *Moor* has been this Morning with me, and has put into my Hands a Pa-
'per, which he calls, I think not improperly, a Charge upon me.

This

This Paper contains the Neglect above-mention'd in the Treaſurer's Letter of *July* the 25th, 1713, Eleven Months before, and yet theſe Faults are now charg'd upon the Treaſurer.

The Committee cannot but obſerve, that his Lordſhip has here taken to himſelf the Credit of correſponding by his own Hand, and his own Charge, in all the Courts concern'd in the preſent Negotiations, and that very often he has had the good Luck to ſet right ſeveral Miſtakes, and to obtain ſome things very little expected. That he boaſted of his laying hold of a ſeaſonable Opportunity in Parliament upon rejecting the Bill of Commerce, to prevail with Members of that Houſe of Commons to come into the Payment of the Civil Liſt Debts; and has alſo charg'd ſeveral Perſons, then in High Stations in Her Majeſty's Service, with Corruption and Imbezzlement of the Publick Money; and preſum'd to recommend himſelf to Her Majeſty, by having us'd all his Skill and Credit to keep the Houſe of Commons from examining into the ſame. And your Committee having receiv'd Information, that large Sums of Money had been directed for ſpecial Services relating to the War, by Signs Manual, and Warrants upon the ſame, Counterſigned by his Lordſhip, which Sums were afterwards paid to his Lordſhip's Order; Your Committee thought it incumbent upon them to lay before the Houſe Copies of the ſaid Signs Manual, and Warrants, and Orders thereupon, together with Extracts from the Regiſter of the Exchequer; whereby it will appear, that theſe large Sums, iſſued for the Service of the War, were received and apply'd to his Lordſhip's Private Uſe.

Your Committee in drawing up and forming this Report, having obſerv'd ſeveral Tranſactions, Orders, and Directions given by the Miniſters in the Queen's Name, which are in no manner agreeable to Her Majeſty's Sentiments and Intentions, as expreſſed in Her ſeveral Meſſages to Parliament, and Speeches from the Throne, concerning the Terms of Peace which She was pleaſed to communicate to both Houſes; thought it their Duty to enter into a particular Examination of this matter, and to compare Her Majeſty's Declarations with the Meaſures that Her Miniſters preſum'd to take in carrying on theſe important Negotiations.

The firſt time that the Queen made any mention of the Peace to the Parliament, was on *December* 11. 1711. at which time nothing had been concluded between *England* and *France*, but the ſpecial Preliminaries that were Sign'd by the Earl of *Dartmouth*, and Mr. St. *John*, on the part of *England*, and Monſieur *Meſnager* on the part of *France*, *Sept.* 27. 1711. and the general Preliminaries Sign'd by Monſieur *Meſnager* only, which were ſent over by the Earl of *Strafford* as the Foundation of a General Peace. After theſe Preliminaries were Sign'd, Mr. St. *John* had preſs'd Monſieur *de Torcy*, that the King of *France* would explain himſelf with regard to the Allies; begs that the Queen may have ſome Explication of his Intentions in reſpect to the particular Intereſt of the Allies, and concludes with ſaying, If the Sieur *Gualtier* returns with theſe Marks of Confidence, you will ſee our Parliament as much inclin'd to Peace as ever it was to War.

Such Explications as the King of *France* thought fit to make, are contain'd in the Anſwer to the Memorial brought by Monſieur *Gualtier*, *November* 18. 1711. inſerted in the Appendix. Upon which Her Majeſty, at the opening of that Seſſion, in laying before the Parliament the State of the Treaty then on Foot, according to the Advice and Repreſentation made to Her by Her Miniſters, ſaid, That notwithſtanding the Arts of thoſe who Delight in War, both Place and Time are appointed for opening the Treaty of a General Peace. Our Allies, eſpecially the States-General, whoſe Intereſt I look upon as inſeparable from my own, have, by their ready Concurrence, expreſs'd their Confidence in me. The Queen thought the States had readily concurr'd with Her, but it muſt be remembred, that the States had in the ſtrongeſt manner Repreſented againſt the Propoſitions Signed by Mr. *Meſnager*, as too General and Uncertain, not being a ſufficient Foundation upon which a Negotiation might be hazarded; they dreaded the fatal Conſequences of opening the General Conferences, before the Articles offer'd by *France* were made Specifick, and before they knew what they were to truſt to for their own Barrier and their Commerce. Theſe Repreſentations were made in *Holland* to the Earl of *Strafford*; and Mr. *Buys* was ſent over into *England* to enforce them here.

But

But inſtead of acquainting the Queen with theſe Repreſentations, or acting according to her Majeſty's Sentiments, Mr. St. *John*, *October* 9. declares, 'Certain it is, that Her Majeſty is ſo far determin'd in her Meaſures, that 'thoſe will deceive themſelves who may imagine by delay to break them. And *October* the 29th, 'The Queen remains firm in Her firſt Reſolution, of Cauſing the 'Conferences to be open'd upon the Articles Sign'd by Monſieur *Meſnager*. And *November* the 2d, 'The Queen will not finally concert a Plan for the Proſecution 'of the War with the States, until they join with her in agreeing to open the Con- 'ferences of Peace. And *November* 15. Lord *Strafford* ſays, 'He had now told them 'her Majeſty's Order to him was to Declare, that ſhe ſhould look upon any delay 'as a Refuſal to comply with Her Propoſitions. By theſe Threats and extraordinary Meaſures, the States are compell'd by the Queen's Miniſters, to conſent to open the Conferences; when at the ſame time Her Majeſty was perſwaded, that they readily concurr'd in what had been propos'd to them. Her Majeſty Declares, 'She looks upon the Intereſt of the States-General to be inſeperable from 'her own. Mr. St. *John* declares, 'That *Britain* had gone ſo much too far in 'weaving her Intereſt into that of the Continent, that it would prove no eaſy Task 'to diſentangle them without Tearing and Rending.

The Queen ſays further, *The Princes and States which have been engag'd with Us in this War, being by Treaties entitl'd to have their ſeveral Intereſts ſecur'd at a Peace, I will not only do my utmoſt to procure every one of them all reaſonable Satisfaction, but I ſhall alſo unite with them in the ſtricteſt Engagements for continuing the Alliance, in order to render the General Peace ſecure and laſting.* And in Her Meſſage of the 17th of *January* following, Her Majeſty again expreſſes *the Care She intended to take of all Her Allies, and the ſtrict Union in which She propos'd to join with them.*

By theſe Declarations it appears, Her Majeſty's own Reſolution was to unite with the Allies in the ſtricteſt Engagements. But Her Miniſters had taken upon them, in the private Propoſitions ſent over by Mr. *Prior*, to inſert an Article, 'That 'the Secret ſhould be inviolably kept between *England* and *France*, till allow'd to be 'divulg'd by the Conſent of Both Parties. And although *France* in the firſt Propoſitions ſent over by Monſ. *de Torcy*, had offer'd to treat with *England* and *Holland*, either ſeparately, or jointly, with the reſt of the Allies, at the Choice of *England*, the Queen's Miniſters excluded the Allies, and in the Conference held with Monſieur *Meſnager*, 'they are much ſurpriz'd to find that he had Orders to inſiſt, that 'the Queen ſhould enter into particular Engagements, upon divers Articles, which 'depend not upon Her, and which regard the Intereſt of the Allies: And they 'inſiſted that it was abſolutely neceſſary to remit the Diſcuſſion of the particular 'Intereſts of the Allies to General Conferences. And when Mr. *St. John* was preſſing Monſieur *de Torcy* to give them ſome Explications of what was deſign'd for the Allies, he aſſures him, 'If the King would offer a Plan of Specifick Preliminaries, the Queen will never communicate it to Her Allies.' And upon another Occaſion, he declares 'this Negociation was begun and carried on upon a Suppo- 'ſition, that the Queen muſt deſiſt from many Conditions, which in Rigor She 'was oblig'd to procure for Her Allies.'

In the Meſſage of the 17th of *January* the Queen declares, *Her Plenipotentiaries had begun, in Purſuance of their Inſtructions, to concert the moſt proper Ways of procuring a juſt Satisfaction to all in Alliance with Her, according to their Treaties, and particularly with Relation to* Spain *and the* Indies. And Her Majeſty had ſaid before, in Anſwer to an Addreſs from the Houſe of Lords, preſented the 11th of *December*, 1711, *I ſhould be ſorry any one could think I would not do my utmoſt to recover* Spain *and the* Indies *from the Houſe of* Bourbon.

Your Committee cannot make the leaſt doubt but Her Majeſty was determin'd to recover *Spain* from the Houſe of *Bourbon*. But that Her Miniſters had no ſuch Thoughts, and did not in the leaſt endeavour it, appears in every part of the Negotiation. In the firſt Propoſitions ſent over by Mr. *Prior*, Demands are made of the King of *France*, to be perform'd by the King of *Spain*, which the King of *France* was to engage for. And as appears by an Entry in Lord *Strafford*'s Book, Mr. *Prior* had Orders to ſee if they had full Powers from *Spain*. In the ſpecial Preliminaries, an Acceptation whereof was Sign'd by the Earl of *Dartmouth*, and Mr. *St. John*, *September* the 27th 1711. it is ſaid expreſſly, The King promiſes in the Name of the King of *Spain* his Grandſon, and according to the Powers

which

which His Majeſty has receiv'd from that Prince, That Port *Mahon* and *Gibraltar* ſhall remain to the *Engliſh*. Theſe Steps had been taken by the Queen's Miniſters, even before Her Majeſty had made theſe Declarations; which the Committee cannot therefore but conclude Her Majeſty was not inform'd of. And altho' the Queen's Plenipotentiaries were oblig'd by their Inſtructions to inſiſt, That *Spain* and the *Weſt-Indies* ſhould not be allotted to any Branch of the Houſe of *Bourbon*; when the Plenipotentiaries of *France*, on the 11th of *February*, 1711-12, gave in their Specifick Explanation of the General Preliminaries, Sign'd by Mr. *Meſnager*; the King of *France* made his firſt Offers in the Name, and by Virtue of Powers from his Grandſon King *Philip*, as King of *Spain*. On the 4th of *March*, 1711-12, at a Meeting of the Miniſters of the Allies at *Utrecht*, where they were to Communicate to each other their reſpective Demands; Count *Sinzendorff* inſiſted, That the Reſtitution of the whole *Spaniſh* Monarchy ſhould be expreſly mention'd; upon which Occaſion it appears, by a Letter from the *Engliſh* Miniſters of the 6th of *March*, That they were the only Miniſters that did not make any mention at all of *Spain*, and that they were ſenſible of the diſadvantageous Conſequences of being ſo; but being deſirous to take off this Odium, they make a General Declaration concerning the juſt and reaſonable Satisfaction for the Queen's Allies, in Conformity to their Alliances; and humbly hope what was ſaid will not be found contrary to what has been hitherto declar'd.

All the Attempt that the Queen's Miniſters ever made towards obtaining this great Point, which Her Majeſty declares, She ſhould be ſorry any one could think She did not do Her utmoſt to procure, was to demand Aſſurances that the Crowns of *France* and *Spain* ſhould never be united. The Method of preventing this Union was never mentioned by the Queen's Miniſters in order to be treated of, nor the Senſe of *France* and *Spain* ever ask'd upon it till the latter End of *March*, 1712.

In this Meſſage her Majeſty further adds, *The World will now ſee how groundleſs thoſe Reports are which have been ſpread abroad by Men of evil Intentions to ſerve the worſt Deſigns, as if a Separate Peace had been treated, for which there has not been the leaſt Colour given.*

In this Declaration, Her Majeſty is adviſ'd by Her Miniſters, in order to clear them from the juſt Suſpicions which all the World had conceiv'd of the ſeparate Meaſures they were engag'd in, not only to declare there had not been the leaſt Colour given for ſuch Jealouſies, but to Brand all that entertain ſuch Apprehenſions, with the Character of Men of evil Intentions, that had the worſt Deſigns to ſerve. But that moſt juſt Cauſe had been given for theſe Reports, is ſufficiently Evident from what was juſt now obſerv'd. The Miniſtry had inſiſted that the Secret ſhould be inviolably kept between *England* and *France*, excluſive of all the Allies. A Separate Negotiation between *England* and *France* had been carry'd on by Papers ſent backward and forward, and much Time ſpent therein, as is ſaid in Lord *Strafford's* Inſtructions. Mr. *Prior* had been ſent into *France*, and Mr. *Meſnager* had been in *England*, and not the leaſt Communication was given for Five Months together to any of the Allies of theſe Tranſactions, which were depending from *April* 1711, to *September* following, from the Time that the firſt Propoſals Sign'd by Monſieur *de Torcy* were ſent to the States, till the Seven General Preliminaries Sign'd by Mr. *Meſnager*, were communicated to them. When theſe General Preliminaries were Sign'd, which were ſent over as a Foundation to open the General Conferences, a Set of Special Preliminaries between *England* and *France* was Sign'd on both Parts, which were conceal'd, publickly diſown'd, and never appear'd till this Enquiry; and all theſe Tranſactions had paſs'd, however diſguis'd to Her Majeſty, before the Time that Her Miniſters adviſ'd the Queen to impoſe ſo groſly upon the Nation, as to declare in Parliament, there had not been the leaſt Colour given for theſe Surmiſes.

Her Majeſty is adviſ'd here to declare, That to report that a Separate Peace had been treated, proceeds from evil Intentions, and to ſerve the worſt Deſigns. But Your Committee obſerve, That after this Declaration of the Queen, Her Miniſters propoſe to *France*, agreed with *France*, and ſent poſitive and repeated Orders to the Queen's Plenipotentiaries, not only to treat, but to conclude a Separate Peace with *France*. On the 20th of *June*, 1712, Mr. *St. John* acquaints Mon-

Monſieur *de Torcy*, The Queen will make no difficulty to conclude immediately a Separate Peace with *France*, leaving the Allies a Time wherein they may have Liberty to ſubmit to ſuch Conditions as ſhall be agreed upon between the Queen and the Moſt Chriſtian King. In Anſwer to this Monſieur *de Torcy* tells Mr. *St. John*, Upon Condition the Queen does immediately make a Separate Peace, and keep no Meaſures with Her Allies, the King has determin'd to ſend his Orders to permit the *Engliſh* Troops to enter into *Dunkirk*. On the 12th of *July*, 1712, Mr. *St. John* thinks the Queen in a Condition not to loſe a Moment's Time in concluding with the Miniſters of *France* the Convention for a General Suſpenſion of Arms both by Sea and Land, and even the Treaty of Peace between *Britain* and *France*. And on the 4th of *Auguſt*, 1712, Monſieur *de Torcy* acquaints Mr. *St. John*, That the King conſented to the Duke of *Savoy*'s having *Sicily* upon certain Conditions; wherein one expreſs Condition is, That a Peace be concluded between *England*, and *France*, *Spain*, and *Savoy*. And at laſt, when the Treaty drew near to a Concluſion, and almoſt all the Allies were ready to Sign, on the 20th of *February*, 1712-13, poſitive Orders are ſent to the *Britiſh* Plenipotentiaries to conclude and Sign with *France*; and on the 28th Lord *Bolingbroke* repeats his Orders to the *Britiſh* Plenipotentiaries to conclude and Sign with *France*: And acquaints them, 'The Duke of *Shrewsbury* had declar'd, That their Lordſhips had 'Orders, in caſe the *French* comply'd, as they now have actually done, to Sign Her 'Majeſty's Peace with *France* without further delay; and that His Grace had alſo 'declar'd, That in this Caſe Her Majeſty would open the Parliament by telling 'them that She had made a Peace with *France*: Theſe two Conſiderations, his 'Lordſhip ſays, were perhaps the moſt prevalent Inducements to the *French* Court 'to come roundly into Her Majeſty's Propoſitions.

Your Committee think they cannot cloſe this Head better than with repeating a Paſſage from one of Lord *Bolingbroke*'s Letters to Mr. *Prior*, wherein he ſays, 'If ſuch Overtures as theſe were not inſtantly accepted, our Separate 'Peace would, ſitting this Parliament, be addreſs'd for, made, approv'd, and the 'Cauſe of *France* for once become Popular in *Great-Britain*.

On the 6th of *June*, 1712, the Queen ſays, *I am now come to let You know upon what Terms a General Peace may be made.*

On the ſame Day, Lord *Bolingbroke* acquaints Monſieur *de Torcy*, 'That tho' the 'King of *France* had not anſwer'd the Queen's Demands, according to expectation, 'the Queen would not defer going that Day to Parliament, and making all the 'Declarations that were neceſſary to render the Nation unanimouſly inclined to 'the Peace.

The Queen ſays, *The Difficulties had been increas'd by other Obſtructions, artfully contriv'd to hinder this great and good Work.* Whereas it is notorious, that the Miniſters had receiv'd but the Day before, the Account that King *Philip* had conſented to make the Renunciation, upon which Account only the Queen's ſpeaking to the Parliament had been deferr'd.

The Queen ſays, *I have not omitted any Thing which might procure to all our Allies what is due to them by Treaties, and what is neceſſary for their Security.*

Lord *Bolingbroke*, on the very ſame Day, in his Letter to Monſieur *de Torcy* ſays, 'Lord *Strafford* is going back to *Utrecht*, and the Inſtructions he is to carry will put 'the Queen's Plenipotentiaries in a Condition to keep no longer thoſe Meaſures to 'which they have hitherto been oblig'd to ſubmit; but from henceforth they may 'openly joyn with thoſe of *France*, and give Law to them who will not ſubmit to 'juſt and reaſonable Conditions.

The Queen ſays, *Nothing has mov'd me from ſteadily-purſuing in the firſt Place the true Intereſt of my own Kingdoms.*

Lord *Bolingbroke* juſt before, on the 24th of *May*, had propos'd to Monſieur *de Torcy*, 'That the Queen being much more Intent upon the General Peace, than 'any particular Advantages, Commiſſaries ſhould be appointed to ſettle after the 'Peace, ſuch Points relating to Trade, as requir'd a longer Diſcuſſion than the 'preſent Criſis would admit.

The

The Queen says, *That to prevent the Union of the Two Crowns, she would not be content with what was Speculative, but insisted upon something Solid:* Altho' Monsieur *de Torcy* had before declar'd to the Queen's Ministers, 'That to accept of this Expedient which they propos'd would be to build upon a Sandy 'Foundation.

The Queen says, *The Nature of the Proposal for a Renunciation is such, that it executes it self; and that* France *and* Spain *are thereby more effectually divided than ever.* 'But Monsieur *de Torcy* had before assur'd the Queen's Ministers, 'That 'this Renunciation would be null and void, by the fundamental Laws of *France*; 'and they would deceive themselves who accepted of it as an Expedient to pre-'vent the Union of the Two Crowns.

The Queen says, *Provision is made, that the same Privileges and Advantages as shall be granted to any other Nation by* France, *shall be granted in like Manner to Us.* But it appears, by a Letter of Lord *Bolingbroke*'s in *January* following to the Duke of *Shrewsbury*, That *France* refus'd to let our Trade stand upon the Foot of *Gens amicissima*; declar'd the Tariff of 1664, which was granted to the *Dutch*, except the Four Species, was too Beneficial for Us; and refus'd to grant it until another Tariff should be made in *Great-Britain* exactly conformable to that of 1664. whereby our Duties would be reduced as theirs are in *France* by that Tariff.

As to our Commerce with *France*, the Queen says here, *June* the 6th 1712. *It was in a Method of being settled.* And Mr. *Prior* says of it in *May* following, near a Twelvemonth after, 'We had like to have made an *Athanasian* Business of 'it at *Utrecht*, by that Explanation of our own Way of understanding our own 'Commerce. Their Letters to you, full of Surmises and Doubts, that all was un-'hinged; and their Letters to Us again, That Explanations, however made, were 'only to save Appearances, and signified nothing: This *Mélange*, I say, and my 'endeavouring to understand it, had like to make me run mad, if the Duke of 'Shrewsbury's extreme good Sense, and Monsr. *de Torcy*'s not only Honest but Right 'Understanding, had not redress'd Us.

The Queen says, *The* French *consented to deliver up* Newfoundland *and* Placentia. But it must be remembred, That in the Preliminaries sign'd in *September* preceding, the *French* had reserv'd to themselves a Liberty of taking and drying Fish in *Newfoundland.*

The Queen says, *An absolute Cession was to be made of* Nova Scotia, *or* Acadia. But Cape *Breton*, which was always understood to be, and is so declar'd by the Queen's Instructions to the Duke of *Shrewsbury*, to be Part of *Nova Scotia*, is expresly given up to *France.*

The Queen says, *The Trade to* Spain *and the* West-Indies *may in general be settled, as it was in the Time of the late King of* Spain, Charles *the Second.* But when the Project of the Treaty of Commerce came from *Madrid*, Lord *Bolingbroke* says of it, 'They had sent a Blind, Lame, Mishapen, Indigested Mon-'ster, instead of that fair Offspring which we had reason to expect from our 'Candour.

If all the other Parts of this Speech be strictly examin'd, it will be found that the Ministry did so grosly deceive the Queen, in order to impose upon the Parliament by her Authority, that there is scarce a Paragraph that does not contain some unfair, or at least equivocal Representation of the State of the Negotiations. And when the Queen was advis'd by her Ministers to make this Communication to Parliament, as the Terms upon which a General Peace might be made, it is very evident, they had no Assurances that *France* would make good what they prevail'd upon the Queen to declare in so solemn and publick a Manner. For on *June* the 11th, the Bishop of *Bristol* is directed by Mr. St. *John* to Discourse with the Ministers of the Allies agreeably to the Plan contain'd in Her Majesty's Speech: But before his Lordship makes this Step, Mr. St. *John* tells him, 'It will be proper that he speaks first with the *French* Plenipotentiaries upon this 'Subject; whether they will be willing, and in what manner they will be willing, 'to give this Communication to the Allies. In answer to which, the Bishop of *Bristol* writes word, *June* the 28th, that the *French* Plenipotentiaries declar'd they had no such Orders, and without them they could not do it: And in this

Refusal

Refuſal of owning the Queen's Speech, as containing their Maſters Offers, and in abſolutely denying to Treat upon it, the *French* Plenipotentiaries perſever'd, even after the *Dutch* had conſented to Treat upon that Plan, and to accept the Queen's Speech *pro Materiâ tractandi.*

The Committee having proceeded thus far in the Peruſal and Examination of the Books and Papers referr'd to them, thought it not proper to defer this Report until they had perfected what remains, eſpecially upon the Affairs of Dunkirk *and the* Aſſiento: *In which they have made ſuch a Progreſs, that they hope they ſhall in a ſhort time be able to lay them before the Houſe.*

APPEN-

APPENDIX.

N°. I.

The First Propoſitions of France, *Dated the Twenty ſecond of* April, 1711.

AS it is not to be doubted but the King is in a Condition to maintain the War with Glory, ſo it cannot be eſteem'd a Sign of Weakneſs, that his Majeſty breaks the Silence that he has kept ſince the Separation of the Conferences of *Gertruydenberg*; and that before the Opening of the Campaign, he ſtill gives new Proofs of the Deſire that he has always preſerv'd to procure the Re-eſtabliſhment of the Repoſe of *Europe*: But after the Experience he has made of the Sentiments of Thoſe who now Govern the Republick of *Holland*, and of Their Induſtry to render the Negotiations fruitleſs, he is willing, for the Publick Good, to addreſs to the *Engliſh* Nation the Propoſitions that he thinks fit to make to end the War, and firmly to Secure the General Tranquillity of Chriſtendom.

'Tis with this View, that the King offers to Treat of Peace upon the Baſis of the following Conditions.

I.

That the *Engliſh* ſhall have real Securities to Exerciſe their Commerce hereafter in *Spain*, to the *Indies*, and in the Ports of the *Mediterranean*.

II.

The King will Agree to form in the *Low Countries* a ſufficient Barrier for the Security of the Republick of *Holland*; and this Barrier ſhall be agreeable to *England*, and to the good liking of the *Engliſh*; his Majeſty promiſing at the ſame time an entire Liberty and Security for the Commerce of the *Dutch*.

III.

Reaſonable Means ſhall be ſincerely and *bonâ fide* ſought out for, to ſatisfie the Allies of *England* and *Holland*.

IV.

As the good State of the Affairs of the King of *Spain* furniſhes new Expedients to end the Difference touching that Monarchy, and to Regulate it to the Content of the Parties intereſted, ſincere Endeavours ſhall be us'd to ſurmount the Difficulties rais'd on this Occaſion, and to ſecure the State, the Commerce, and generally the Intereſts of all the Parties engag'd in the preſent War.

V.

The Conferences to Treat of the Peace upon the Baſis of theſe Conditions ſhall be immediately Open'd, and the Plenipotentiaries that the King ſhall Nominate to aſſiſt thereat, ſhall Treat with Thoſe of *England* and *Holland* alone, or joyntly with Thoſe of their Allies, at the Choice of *England*.

VI.

His Majeſty propoſes the Cities of *Aix la Chapelle* and *Leige* for the Place where the Plenipotentiaries ſhall be Aſſembled, referring it to *England* to Chooſe One of thoſe Two Cities to Treat therein of the General Peace. Given at *Marli* the Twenty ſecond Day of *April*, 1711.

De Torcy.

N°. II.

Private Propoſitions ſent by *from* England, *Dated* Saturday *the* 1ſt *of* July, 1711.

THAT the Man was to be ſent over to Morrow for a final Anſwer.

That We would make no Peace but what ſhould be to the Satisfaction of all Our Allies; That the *Dutch* ſhould have a Barrier, the Emperor One for their Security, and the Duke of *Savoy* One; and that he ſhould have Reſtor'd all that was put into his Poſſeſſion by the Emperor; and that the *French* ſhould Reſtore all they had taken from him; and that he ſhould have what other Addition ſhould be thought proper; and that Care ſhould be taken to keep the Balance in *Italy*; and that We ſhould have poſitive Aſſurance that the Crowns of *France* and *Spain* ſhould never be United.

That all Our Allies ſhould be Satisfied according to their Agreements and Treaties with Us.

That the Trade of *Holland* ſhould be Secur'd.

In Relation to Great Britain *in particular.*

THAT Our Trade and Commerce ſhould be Settled and Agreed on ſuch a foot as will be to the Satisfaction of the Subjects of *Great Britain.*

That the Government ſhould be acknowledg'd in *France*, as it is now Settled in *Great Britain.*

That *Gibraltar* and Port *Mahon* ſhould continue in the Poſſeſſion they now are in.

That *Dunkirk* ſhould be Demoliſh'd.

That the *Aſſiento* ſhould be entirely in the Hands of *Great Britain*, and that *France*, nor no other, ſhould pretend to meddle in it, but *Britain* enjoy it after the Peace as the *French* do now.

That *Newfoundland* ſhould be entirely given up to the *Engliſh*, that the Trade of *Hudſons Bay* ſhould continue in the hands of the *French* and *Engliſh*, as they are now.

And that all things in *America* ſhould continue in the Poſſeſſion of Thoſe they ſhould be found to be in at the Concluſion of the Peace.

That all Advantages, or Liberty of Commerce, that has been or ſhall be Granted to the *French* by the *Spaniards*, ſhall be equally Granted to the Subjects of *Great Britain.*

That the Secret ſhall be inviolably kept, till allow'd to be divulg'd by the mutual Conſent of both Parties concern'd.

Pr. was ſent to *France* the day of *July*, 1711. had a Power Sign'd by the Queen, and order'd to return if they made Difficulties, and to ſee if they had full Powers from *Spain*,

N. *He was met by* Buſſi, *he told at* Dover *he met one going to* France *ſtrait from the River. Buſſi coming without a Paſſwas taken up, and the People deſir'd to inſpire.*

Examined.

N°. III.

Letter from Mr. Secretary St. John *to the Queen, Dated the* 20th *of* September, 1711.

Madam,

THE Lords of the Committee of Council met this Morning at the *Cockpit*, and directed the Earl of *Dartmouth* and my ſelf to Confer with Monſieur *Meſnager*.

We ſaw him accordingly this Evening at Mr. *Prior*'s Houſe, where my Lord Treaſurer and my Lord Chamberlain were likewiſe preſent.

He has put into our hands the Anſwer Sign'd by the King of *France* to the Demands laſt ſent over by Your Majeſty's Order, and this Anſwer complies with every Article, except the Eighth relating to *North-America*; we find however, that we ſhall be able to compound this Point, in the manner which Your Majeſty ſome time ago reſolv'd to paſs it in, provided *France* gave You Satisfaction upon the Seventh Article, as ſhe has nowentirely done.

The Propoſitions which are to be ſent into *Holland*, as the Foundation of a general Treaty, we have likewiſe receiv'd from him, and that which was thought moſt liable to Objection, has been very much mended. My Lord Treaſurer having however propos'd ſome farther Alterations, in order to make the whole the more palatable Abroad; and Monſieur *Meſnager* ſeeming inclin'd to agree to them, I am this Night to draw them into Form for my Lords of the Council to conſider to Morrow Morning.

This, Madam, being the preſent Situation of the Treaty, Your Servants are Unanimouſly of Opinion, that the Warrant and full Powers ſhould be prepar'd this Night, and Tranſmitted to Your Majeſty, by which means, if it be Your Pleaſure, the latter may paſs the Great Seal to Morrow.

It is now ſo extremely late, and I have ſo much Buſineſs to do, which muſt of neceſſity be got ready by Morning, that the whole Night would not ſuffice, if I was to Engroſs the Inſtrument in my own Hand-Writing; I therefore make uſe of a Clerk to Tranſcribe them, but it is the ſame who has Copy'd all the Papers which have paſs'd in the Courſe of this Negotiation.

There comes an exact Tranſlation of the full Powers in this Pacquet, the Words of which are very ample and extenſive, but they are agreeable to the Form uſed by Your Majeſty upon ſuch Occaſions.

My Lord Treaſurer mov'd, and all my Lords were of the ſame Opinion, that Mr. *Prior* ſhould be added to thoſe who are Empower'd to Sign, the reaſon for which is, becauſe he having Perſonally Treated with Monſieur *de Torcy*, is the beſt Witneſs we can produce of the Senſe in which the General Preliminary Engagements are Enter'd into; beſides which, as he is the beſt vers'd in Matters of Trade of all Your Majeſties Servants who have been truſted in this Secret, if You ſhall think fit to employ him in the future Treaty of Commerce, it will be of Conſequence that he has been a Party concern'd in concluding that Convention, which muſt be the Rule of this Treaty. The reſt of the Plenipotentiaries are all thoſe who have the Honour to ſit in Your Majeſty's Cabinet Council, which my Lords underſtood to be Your Majeſty's Pleaſure.

The *Oſtend* Mail which arriv'd laſt Night, brought no News.

I am, with the utmoſt Reſpect,

Madam, Your Majeſty's moſt Dutiful Subject,

and moſt Obedient, Faithful and Devoted Servant,

H. St. John.

N°. IV.

The Anſwer of France *to the Preliminary Demands for* Great Britain *more particularly.*

THE King being particularly inform'd, by the laſt Memorial, that the Miniſters of *Great Britain* return'd to Mr. *Meſnager* of the Diſpoſitions of that Crown, to Facilitate the General Peace to the Satisfaction of all the Parties Intereſted in the preſent War, and his Majeſty plainly ſeeing, as the Memorial ſets forth, that he can run no Riſque by engaging himſelf in the manner therein expreſs'd, ſince the Preliminary Articles will not have any Effect before the Signing of the General Peace; deſiring moreover very ſincerely to do all that is in his Power to Advance the Re-eſtabliſhment of the Repoſe of *Europe*, eſpecially by a way ſo agreeable to his Majeſty as the Interpoſition of a Princeſs will be, whom ſo many Ties of Blood ſhould unite with him, and whoſe Sentiments for the Publick Tranquillity cannot be doubted: His Majeſty mov'd with theſe Conſiderations, hath order'd the Sieur *Meſnager*, Knight of his Order of St. *Michael*, Deputy to the Council of Commerce, to give in Writing the following Anſwers to the Articles contain'd in the Memorial which was ſent to him, Intituled, *Preliminary Demands for* Great Britain *more particularly.*

The

The Kings Anſwer.

Article I.

HIs Majeſty will acknowledge the Queen of *Great Britain* in that Quality, as alſo the Succeſſion to that Crown, according to the preſent Eſtabliſhment.

II.

The King conſents to make a New Treaty of Commerce with *Great Britain*, after the moſt Juſt, moſt Reaſonable, and moſt Advantageous manner to *France* and *Great Britain*.

III.

Tho' *Dunkirk* has coſt the King very great Sums of Money in Purchaſing as well as Fortifying it, and that a very conſiderable Expence will ſtill be neceſſary to Raſe the Works; His Majeſty is however willing to Engage that they ſhall be Demoliſhed immediately after the Concluſion of the Peace, upon condition that an Equivalent ſhall be given him to his own content, in lieu of the Fortifications of that Place; and as *England* cannot furniſh the ſaid Equivalent, the Diſcuſſion thereof ſhall be referred to the Conferences held for the Negotiation of the General Peace.

IV.

The King promiſes in the Name of the King of *Spain* his Grandſon, and according to the Power that his Majeſty has received from that Prince, that *Gibraltar* and Port *Mahon* ſhall remain in the Hands of the *Engliſh* who now Poſſeſs them.

V.

The *Engliſh* ſhall have, after the Peace Concluded, the Treaty of Negroes of *Guinea* to the *Weſt-Indies*, *alias*, the *Aſſiento* Contract, upon the ſame Conditions that that Convention was made by the King of *Spain* with the *French*; So that the Company which ſhall be Eſtabliſh'd for this Effect in *England* ſhall have the Prerogative of Refreſhing, Vending, and Selling their Negroes in all the Places and Ports of *America* upon the *North* Sea, in that of *Buenos Ayres*, and Generally in all the Places and Ports wherein the Importation was permitted to the Ships of the Company form'd in *France* under the Name of the *Aſſiento*.

VI.

The King promiſes, for himſelf, and for the King of *Spain*, purſuant to the Power which is in his Majeſty's Hands,

Preliminary Demands for Great Britain *more particularly.*

Article I.

THe Succeſſion to the Crown of theſe Kingdoms, according to the preſent Eſtabliſhment, ſhall be acknowledged.

II.

A New Treaty of Commerce between *Great Britain* and *France* ſhall be made after a moſt Juſt and Reaſonable Manner.

III.

Dunkirk ſhall be Demoliſhed.

IV.

Gibraltar and Port *Mahon* ſhall remain in the Hands of Thoſe who now Poſſeſs them.

V.

The *Aſſiento* Contract ſhall be made with the *Engliſh* after the ſame manner that the *French* now Poſſeſs it; and ſuch Places in *Spaniſh America* ſhall be Allotted to Thoſe Intereſted in the ſaid Commerce, for the Refreſhment and Sale of their Negroes, as ſhall be thought neceſſary and convenient.

VI.

All the Advantages, Rights and Privileges which are already Granted or which ſhall hereafter be Granted by *Spain*

that

that this Article ſhall be Granted in caſe the Peace be Concluded, as the foregoing, and that it ſhall be punctually Executed.

VII.

Tho' the King of *Spain*, in the beginning of his Reign, was inclinable to favour the *French* Nation, having Occaſion for Supplies of Money to relieve his Country from an Impending War; this Prince, notwithſtanding theſe Conſiderations Granted but for Ten Years to the *French*, the Privilege of the Treaty of Negroes; 'Twould be very much in favour of the *Engliſh* to leave in their hands for Twenty Years a Prerogative which it ſeems all the Nations of *Europe* would each enjoy in their Turn. Yet the King promiſes, that the King his Grandſon ſhall yield to the *Engliſh* during Thirty Years Succeſſively the Treaty of Negroes of *Guinea* to the *Weſt-Indies*, *alias*, the *Aſſiento* Contract, upon the ſame Conditions, Prerogatives, and Privileges Granted to the *French* Company, and which they Enjoy'd or ought to have Enjoy'd ſince the 1ſt. of *May* 1702. to this time.

The King ſhall grant this Article.

His Majeſty promiſes likewiſe in the Name of the King of *Spain*, the Advan-

to the Subjects of *France*, or of any other Nation whatſoever, ſhall be likewiſe Granted to the Subjects of *Great Britain*.

VII.

And for the better protecting the Commerce in the *Spaniſh America*, the *Engliſh* ſhall be put in Poſſeſſion of ſuch Places as ſhall be nam'd in the Treaty of Peace.

France having offer'd a real Security for the Commerce of the Subjects of the Queen of *Great Britain* in the *Spaniſh America*, it was never Doubted but *France* thereby meant ſome Places; and we have been Confirmed in this Opinion, ſince *France* hath propoſed *Gibraltar* as a Security for the Commerce of *Spain* and of the *Mediterranean*. The Advantages and the Privileges offered by the Sieur *Meſnager*, are not to be regarded as real Securities, becauſe it will always be in the Power of *Spain* to reſume them: Therefore 'tis believ'd that *France* is oblig'd, either to cauſe to be yielded to *Great Britain* the Places Demanded in this Article, or to procure it new Advantages, ſuch as the Love of Peace may make it accept as an Equivalent. Upon which We think Our Selves oblig'd to inſiſt, that this Miniſter be furniſhed with a ſufficient Power. And further, to Teſtifie the Sincerity wherewith We Treat, and the Deſire that Her Majeſty of *Great Britain* hath to Advance the General Peace; She hath thought fit to Declare, that the Difficulty ariſen upon this Article may be remov'd, in Granting to Her the following Articles.

That the *Aſſiento* Contract be made with *Great Britain* for the Term of Thirty Years.

That the whole Iſland of St. *Chriſtophers* be Secured to *Great Britain*.

That the Advantages and Exemptions of Duties promis'd by the Sieur *Meſnager*,

 tages

tages and Exemptions of the Duties whereof mention is made in this Article, and which the *Engliſh* ſhall enjoy immediately after the Concluſion of the Peace, at the Exchange of the Ratifications.

The General Peace being made, there ſhall be Aſſign'd to the *Engliſh* Company of *Aſſiento*, an Extent of Land in the River *de la Plata*, upon which they may not only refreſh their Negroes, but keep them ſafe till they be Sold, according to the Conditions which ſhall be Stipulated by the Convention which is to be paſs'd for the *Aſſiento*; and to hinder any Abuſe of this Permiſſion, the King of *Spain* ſhall name an Officer to Intend the Affair, to whoſe Inſpection the Intereſted in the ſaid Company, and generally all thoſe they ſhall employ in their Service, ſhall ſubmit themſelves.

VIII.

The Diſcuſſion of this Article ſhall be referr'd to the General Conferences of the Peace, provided that the Liberty of Fiſhing and Drying of Cod-Fiſh upon the Iſle of *Newfoundland* be Reſerv'd to the *French*.

and which he pretended amounted to 5 *per Cent.* profit upon all Merchandiſes of the Growth and Manufacture of *Great Britain*, be effectually Granted to that Kingdom.

Great Britain may Refreſh their Negroes at *Jamaica*, and there make a Diſtribution of thoſe whom they ſhall ſend to *Vera Cruz*, *Porto Bello*, and other Factories in that Part of the *Indies*: But as on the Side of the River *de Plata*, they have no Poſſeſſion of any Colony, they demand that there be Aſſign'd to them in that River ſome Extent of Land, upon which they may not only Refreſh their Negroes, but keep them Safe until they be Sold to the *Spaniards*. And as no Artifice is intended in making this Demand, they will Submit themſelves in this reſpect, to the Inſpection of the Officer that ſhall for this purpoſe be nam'd by *Spain*.

VIII.

Newfoundland, the *Bay*, and *Streights* of *Hudſon*, ſhall be entirely Reſtor'd to the *Engliſh*; *Great Britain* and *France* ſhall reſpectively Keep and Poſſeſs all the Countries, Dominions, and Territories in *North-America*, which each of thoſe Nations ſhall Poſſeſs at the time that the Ratification of this Treaty ſhall be Publiſh'd in thoſe Parts of the World.

In the Execution of the Orders of the King, We the underwritten Knight of his Order of St. *Michael*, Deputy to the Council of Commerce, have Adjuſted the preſent Anſwers to the Preliminary Demands for *Great Britain*, in Number Eight Articles, by Virtue of the Power of his Majeſty, of which We have furniſh'd a Copy Sign'd with Our hand, and promiſe in the Name of his ſaid Majeſty, that the ſaid Anſwers ſhall be look'd upon as Conditions that he agrees to Grant, of which the Articles ſhall be Reduc'd into the Ordinary Form of Treaties, and Explain'd after the moſt clear and moſt intelligible Manner, to the Common Satisfaction of *France* and *Great Britain*. And this in caſe of the Signing of the Treaty of the General Peace. In Witneſs whereof We have Sign'd, and put the Seal of Our Arms. Given at *London*, $\frac{27\ Sept.}{8.\ Oct.}$ 1711.

(L.S.) *Meſnager.*

The moſt Chriſtian King, having Teſtified to the Queen the ſincere Deſire that he has to ſee the General Tranquillity of *Europe* Re-eſtabliſh'd by a Definitive, Sure, and Durable Peace, agreeable to the Intereſt of all the Allies, and having Deſir'd that the Queen would Advance the Negotiation of ſuch a Peace, it hath been thought Juſt and Reaſonable, that the Intereſts of *Great Britain* ſhould in the firſt Place be Adjuſted and Secured. For this End the moſt Chriſtian King having ſent the Sieur *Meſnager*, Knight of the Order of St. *Michael*, and Deputy to the Council of Commerce, he hath Adjuſted the abovemention'd Articles in Number Eight, by Virtue of the Power of his moſt Chriſtian Majeſty, whereof he has Supplied Us with a Copy Sign'd with his hand; which Articles We the underwritten Declare, by Virtue of an Expreſs Order from Her Majeſty, that She does accept as Preliminary Articles, which only contain ſuch Securities and Advantages as Her Majeſty thinks She may in Juſtice expect, what Prince ſoever he be to whom the Monarchy of *Spain* ſhall be Allotted. And theſe Articles are to be look'd upon as Conditions that his moſt Chriſtian Majeſty agrees to Grant; which Articles ſhall be Reduced

into the usual Form of Treaties, and Explain'd after the most clear, and most intelligible Manner, to the Common Satisfaction of *Great Britain* and *France*. And this only in case of the Signing of the General Peace. In Witness whereof We have Sign'd, and put the Seals of Our Arms. Given at *London*, $\frac{27\ Sept.}{8.\ Oct.}$ 1711.

(L.S.) *Dartmouth.*

(L.S.) *H. St. John.*

N°. V.

Warrant to Lord Keeper, for Affixing the Great Seal to a Commission for Signing a Treaty with Mesnager.

(L.S.) *Anne R.* Endors'd----not Us'd.

OUR Will and Pleasure is, That you forthwith cause Our Great Seal of *Great Britain* to be Affix'd to an Instrument bearing Date with these Presents, whereof you have a Copy hereunto annex'd; containing Our Commission to you Our Keeper of Our Great Seal, and others therein Nam'd, to Treat with the Sieur *Mesnager*, sent hither with full Power from the most Christian King, concerning the Interests of Us and of Our Kingdoms; and to conclude and Sign a Conditional, or Eventual Treaty, for Settling and Securing the same. And for so doing this shall be your Warrant. Given at Our Castle at *Windsor*, this 17*th* Day of *September*, 1711. In the Tenth Year of Our Reign.

By Her Majesties Command.

To Our Right Trusty and Well-beloved Counsellor Simon *Lord* Harcourt, *Our Keeper of Our Great Seal of* Great Britain.

Translation of the full Powers, Annex'd to the foregoing Warrant.

ANNE, by the Grace of God, Queen of *Great Britain*, *France*, and *Ireland*, Defender of the Faith, &c. To all and singular to whom these Presents shall come, Greeting. Whereas the most Christian King hath given Us Assurances, That he is ready to enter into a Negotiation for Concluding a General Peace, which may be agreeable to the Interests of all the Confederates, and hath Invited Us to promote the same: And whereas it is highly Just and Reasonable to Agree, in the first place, concerning Our Affairs, and the Advantages of Our Kingdoms, and to settle them by previous Conditions, and some Eventual Treaty; and the most Christian King having sent hither for that purpose the Sieur *Mesnager*, Knight of the Order of St. *Michael*, and Deputy in the Council of Commerce, fully instructed, and provided with sufficient Authority. We likewise on Our part have thought fit to Name certain Plenipotentiaries for the Perfecting so necessary a Work. Now know ye, That We reposing special Trust in the Loyalty, Prudence, and Skill in the Management of Affairs, of Our Right Trusty and Well-beloved Counsellor *Simon* Baron *Harcourt* of *Stanton Harcourt*, Our Keeper of Our Great Seal of *Great Britain*; Our Right Trusty and Right Well-beloved Cousin and Counsellor *Robert* Earl of *Oxford* and *Mortimer*, Our High Treasurer of *Great Britain*; Our Right Trusty and Right entirely Beloved Cousin and Counsellor *John* Duke of *Buckinghamshire*, Our President of Our Council; the Right Reverend Father in God, and Our Right Trusty and Well-beloved Counsellor, *John* Lord Bishop of *Bristol*, and Keeper of Our Privy Seal; Our Right Trusty and Right Entirely Beloved Cousin and Counsellor *Charles* Duke of *Shrewsbury*, Our Chamberlain of Our Household; Our Right Trusty and Right Well-beloved Cousin and Counsellor *John* Earl *Poulet*, Our Steward of Our Household;

Houſhold; Our Right Truſty and Right Well-beloved Couſin and Counſellor, *William* Earl of *Dartmouth*, One of Our Principal Secretaries of State; Our Right Truſty and Well-beloved Counſellor, *Henry St. John* Eſq; another of Our Principal Secretaries of State; and Our Truſty and Well-beloved *Mathew Prior* Eſq; have Named, Conſtituted and Appointed, and do by theſe Preſents Name, Conſtitute and Appoint them to be Our True, Real and Undoubted Plenipotentiaries, giving and granting unto them full Power and Authority, with the aforeſaid Sieur *Meſnager*, being ſufficiently Impower'd to this purpoſe by the moſt Chriſtian King, for Us, and in Our Name, to Meet and to Treat of Our Intereſts, and of thoſe of Our Subjects, which are to be Settled by an Eventual or Conditional Convention between Us and the aforeſaid moſt Chriſtian King: And We do likewiſe give unto them full Power and Authority to Sign and to Exchange ſuch Convention, and to Do and Perform all ſuch other Matters as may be neceſſary, in as full and ample manner as if We Our ſelves were preſent, Promiſing upon Our Royal Word, that We will make good all ſuch Things as ſhall, by Our aforeſaid Plenipotentiaries, by virtue of theſe Preſents, be Concluded; and that We will not at any time ſuffer the ſame to be Broke, but on the contrary, that We will Religiouſly and Inviolably Obſerve, and cauſe to be Obſerv'd, the ſame. For the greater Manifeſtation and Strength whereof, We have Order'd Our Great Seal of *Great Britain* to be fixt to theſe Preſents, Sign'd with Our Royal Hand. Given at Our Caſtle of *Windſor*, the Seventeenth Day of *September*, in the Year of Our Lord, 1711. And the Tenth Year of Our Reign.

Anne R.

N°. VI.

Warrant for Lord Dartmouth, *and Mr. Secretary* St. John, *to Sign the Preliminaries with* France.

(L. S.) Anne R.

WHereas We have ſeen and approv'd the Paper hereunto annex'd, containing the Demands made by Our Order, for Settling and Securing the Intereſts of theſe Our Kingdoms in a future Treaty of Peace, together with the Anſwers of the moſt Chriſtian King thereunto, as alſo the Form according to which the Sieur *Meſnager* propoſes to Sign the ſaid Articles, and the Declaration which is to be made on Our part; We do therefore hereby Direct, Authorize and Impower you to Sign the ſaid Declaration accordingly: And for ſo doing, this ſhall be your ſufficient Warrant. Given at Our Caſtle at *Windſor* this Twenty fifth Day of *September*, 1711. In the Tenth Year of Our Reign.

A. R.

To Our Right Truſty and Right Well-beloved Couſin and Counſellor, William *Earl of* Dartmouth, *and Our Right Truſty and Well-beloved Counſellor*, Henry St. John *Eſq; Our Principal Secretaries of State.*

27 Sept. / 8 Oct. 1711.

N°. VII.

N° VII.

Preliminary Articles on the Part of France *to come to a General Peace.*

THE King being willing to Contribute all in his Power to the Re-eſtabliſhment of the General Peace, his Majeſty Declares,

1. That he will acknowledge the Queen of *Great Britain* in that Quality, as alſo the Succeſſion to that Crown according to the preſent Eſtabliſhment.

2. That he will conſent, Voluntarily and *bonâ fide*, to take all Juſt and Reaſonable Meaſures to hinder the Crowns of *France* and *Spain* from being ever Reunited upon the Head of One and the ſame Prince, his Majeſty being perſwaded that this Exceſs of Power would be contrary to the good, and to the general Repoſe of *Europe*.

3. The Kings Intention is, that all the Parties Engag'd in the preſent War, without Excepting any, may find their reaſonable Satisfaction in the Treaty of Peace to be made; That the Commerce be Re-eſtabliſh'd, and be hereafter Supported to the Advantage of *Great Britain*, *Holland*, and other Nations, which have been accuſtom'd to Exerciſe it.

4. As the King is alſo willing to Maintain exactly the Obſervation of the Peace, when it ſhall be Concluded, and that the view his Majeſty propoſes to himſelf, is to ſecure the Frontiers of his Kingdom, without troubling in any manner whatſoever the Neighbouring States, he promiſes to agree by the future Treaty of Peace, that the *Dutch* ſhall have in their Hands the Fortified Places, which ſhall be Specified, in the *Low Countries*, to Serve hereafter as a Barrier, which may Secure the Repoſe of the Republick of *Holland* againſt any Attempt on the part of *France*.

5. The King alſo Conſents, that there be form'd for the Empire and for the Houſe of *Auſtria*, a ſure and convenient Barrier.

6. Tho' *Dunkirk* hath coſt the King very great Sums of Money, as well to purchaſe as to Fortifie it, and that a conſiderable Expence will ſtill be neceſſary in order to Raſe the Works thereof, his Majeſty is nevertheleſs willing to Engage to cauſe them immediately to be Demoliſh'd after the Concluſion of the Peace, upon condition that there be given him for the Fortifications of that Place, an Equivalent agreeable, and to his own content; And as *England* cannot furniſh the ſaid Equivalent, the Diſcuſſion thereof ſhall be referr'd to the Conferences to be held for the Negotiation of the Peace.

7. When the Conferences for the Negotiation of the Peace ſhall be form'd, all the Prerenſions of the Princes and States Engaged in the preſent War ſhall be *bonâ fide* and Amicably Diſcuſs'd thereat, and nothing ſhall be omitted to Regulate and to Conclude them to the Satisfaction of all the Parties.

By Virtue of the Kings full Power, We the Underwritten Knight of his Order of St. *Michael*, Deputy to the Council of Commerce, have, in his Majeſties Name, Settled theſe Preliminary Articles. In Witneſs whereof We have put to Our Seal. Given at *London* $\frac{27\ September}{8\ October}$ 1711.

(L.S.) *Meſnager.*

Separate Article.

THE King Promiſes to Reſtore to the Duke of *Savoy* the Dominions and Territories which belong'd to that Prince at the beginning of the preſent War, and which his Majeſty now Poſſeſſes; Aſſuring further, that his ſaid Majeſty will Conſent, that there be alſo yielded to the Duke of *Savoy* ſuch other Places in *Italy* as ſhall be found agreeable to the Senſe of the Treaties made between that Prince and his Allies.

By Virtue of the full Power from the King, whereof We have furniſh'd a Copy Sign'd with Our own Hand, We the Under-written Knight of his Order of St. *Michael*, Deputy to the Council of Commerce, have concluded this preſent Preliminary Article, and do promiſe, in the Name of his Majeſty, that it ſhall be as duly Executed, in caſe the General Peace be Sign'd, as if it had been inſerted in the other Preliminary Articles by Us this Day Adjuſted. In Witneſs whereof, We have Sign'd the ſame, and Affix'd the Seal of Our Arms thereunto. Given at *London*, $\frac{27\text{ }Septemb.}{8\text{ }October}$ 1711.

(*L. S.*) *Meſnager.*

N°. VIII.

October *the Firſt*, 1711.

Her Majeſty's Inſtructions to the Earl of Strafford, *Ambaſſador*, &c. *to the* States General.

UPon your Arrival in *Holland* (whither you are to repair with all poſſible Diligence) you ſhall take the firſt Opportunity of conferring with the Penſionary, and of informing him, that We have ſent you back as ſoon as ſome Matters of the greateſt Moment were Ripe, and fit to be laid before Our good Friends and Allies the States General.

You are to repreſent to this Miniſter, and to ſuch others as ſhall be appointed to confer with you, That when We receiv'd, in the Month of *May* laſt, by your Diſpatches to Us, an Account of the Senſe which thoſe among them, who were at that time in the Secret, had of the Overtures made by *France* for Settling a General Negotiation of Peace again on Foot, and of the Anſwer which it was deſir'd might be return'd to the Propoſitions Sign'd by Monſieur *de Torcy*, We did immediately acquaint the Enemy, that their Offers were thought by Us, and by the States General, neither particular nor full enough, and therefore We did inſiſt that they ſhould form a diſtinct Project of ſuch a Peace as they were willing to conclude.

You are further to inform the *Dutch* Miniſters, that this Affair being Tranſacted by Papers ſent backward and forward, and much time being loſt in this dilatory Method, We did at laſt think fit to ſend to the Court of *France*, in order to have from thence ſome more certain Account of the Diſpoſitions towards Peace, and of the Terms on which they might be willing to make it.

That the *French* did hereupon ſend over a Perſon with Powers to Treat and to Settle ſome preliminary Articles to a General Negotiation; but that this Perſon being neither fully Inſtructed, nor ſufficiently Empower'd, a ſtill further Delay was created, and it became abſolutely neceſſary to allow him to ſend to his Court for more ample Inſtructions; We being determin'd on Our part, according to the Deſire of the Penſionary, and of the other Miniſters, to leave nothing undone which might bring the *French* to be more Direct and Particular in their Overtures.

You are to Communicate to the Penſionary, and to the Miniſters you confer with, the Paper herewith deliver'd to you, Sign'd by Monſieur *Meſnager*, an old Acquaintance of theirs, and one with whom they have formerly Treated; repreſenting to them, That though the ſeveral Articles do not contain ſuch particular Conceſſions as *France* muſt, and to be ſure will make, yet they are, in Our Opinion, a ſufficient Foundation whereupon to open the Conferences.

That We were unwilling to take upon Our Selves to Determine the ſeveral Intereſts of Our Allies, and did therefore Reſolve to content Our Selves with ſuch General Offers as might include all the particular Demands proper to be made in the Courſe of the Negotiation, during which it muſt be the moſt careful Endeavour, and the fix'd Principle of all the Confederates, to hold faſt together, in order to obtain from the Enemy the utmoſt which can be hop'd for in the preſent Circumſtances of Affairs. And this Rule you may aſſure them, that We ſhall on Our part firmly adhere to.

If upon this, or upon any other Occaſion, the Miniſters of *Holland* ſhall expreſs their Uneaſineſs, leſt We ſhould have Settled the Intereſts of theſe Our Kingdoms, in a future Peace, by any Private Agreement; you are to ſay, That We have refuſed to ſuffer the Treaty to be carry'd on in Our own Country, and that We ſhall ſtill continue to do ſo, unleſs they conſtrain Us to take another Meaſure: That by this means, the *Dutch*, and all Our Allies, will have the Opportunity and Conveniency of Treating and Adjuſting their different Pretenſions; in promoting of which We ſhall exert all that Zeal for the Common Good, and for their particular Advantage, which We are ſure they do Us the Juſtice to confeſs that We have ſhown through the whole Courſe of Our Reign.

You will further ſay, that you can take upon your ſelf to aſſure them, That We have made no Stipulations for Our Selves, which may Claſh with the Intereſt of *Holland*; That thoſe Articles which We expect ſhould be Inſerted in the future Treaty of Peace, for the particular Intereſt of *Great Britain*, are for the moſt part ſuch as contain Advantages, which muſt either Continue to the Enemy, or be Obtain'd by Us. And alſo, that no Conceſſions whatſoever can Tempt Us to Embrace the Bleſſing of Peace, unleſs Our good Friends and Allies the States General have all reaſonable Satisfaction as to their Barrier, as to their Trade, and in all other Reſpects.

Theſe Aſſurances being given in Our Name, you are to Inſinuate ſtrongly to the Miniſters of *Holland*, how Juſt Reaſon We ſhould have to be Offended, and to look on the Proceeding between them and Us as very Unequal, if they ſhould pretend to have any further Uneaſineſs upon this head: And We being determined to accept of no Advantages to Our Selves, repugnant to their Intereſts, nor of any Peace which may not be to their reaſonable Satisfaction; That the figure which We have made thro' the whole Courſe of this War, and the part which We have Acted in it, Superior to what any of the Allies, even thoſe who are neareſt to the Danger, and in Intereſt moſt deeply Concern'd, have done, might Juſtly Entitle Us, if We ſhould ſo think fit, in the firſt Place, to Adjuſt and Settle the Particular Concerns of *Great Britain*, before We ſhould conſent to ſet the General Negotiation on Foot.

If thoſe Engagements, which We are under by Our Treaties, of making no Peace, but in Concert with them, or the particular Obligations of the Barrier Treaty, are Objected to you, you are to ſay, as to the firſt, That We have not in any ſort Acted contrary thereto; That We are ſo far from making a Peace without their Concurrence, that We have Declared Our firm Reſolution not to make it without their Satisfaction; and that all that has Paſſed between *France* and Us, amounts to no more than an Introduction to a General Negotiation: As to the latter, you will Repreſent very earneſtly to them, how much it is for the Intereſt even of *Holland* it ſelf, rather to Compound the Advantages of the Barrier Treaty, than to inſiſt upon the whole, ſince it is notorious, the Houſe of *Auſtria*, and ſeveral other of the Allies are and muſt neceſſarily continue utterly Averſe to it; and ſince you may your ſelf, aſſure them upon the Obſervation which you have made during your ſtay here, that nothing can be more odious to the People of theſe Kingdoms, than many Parts of this Treaty; and that nothing has prevented that National, and Univerſal Indignation which would have broke out upon this Occaſion, but the great Care and Induſtry which has been Us'd to calm the Minds of thoſe who are acquainted with the Terms of this Guarrantee, and to keep the ſame as Secret as poſſible from thoſe who are not yet appriſ'd of Them; you will Expoſtulate further with the Miniſters of *Holland*, by ſhewing the abſolute Neceſſity of Entertaining a good Harmony between the two Nations, upon which not only their Mutual Safety in a great Meaſure depends, but without which, there can at no time be form'd a Strength ſufficient to Reduce any Exorbitant Power, and to Preſerve the Balance of *Europe*; and upon this Foundation, you will Argue, that it is the true Intereſt of neither Country to inſiſt on any Conditions which may give Juſt Apprehenſions to the other.

You are to acquaint them, That *France* propoſes *Utrecht*, *Nimighen*, *Aix la Chapelle* and *Liege*, as Places in any One of which the Conferences may with Conveniency be held; That We have refuſed to let the General Treaty be carried on in Our own Country, and that We are ready to ſend Our Plenipotentiaries to ſuch of theſe Four Towns as may be moſt agreeable to them.

You

You are to conclude your Conference by desiring that they will give all possible Dispatch to the Choice of a Place of Treaty, and that the Passports to the *French* Plenipotentiaries may be hastned; It being in Our Opinion of Importance so to forward the Progress of this great Affair, that on one hand We may not be Exposed to begin too late the Preparations for the next Campaign, nor on the other to put Our Selves to an Expence which, in case the General Treaty proceeds, will be unnecessary.

And whereas not only the *Dutch*, but the Imperial and other Ministers, may perhaps deny the Paper herewith Delivered to you, to be a Sufficient Ground for Opening the Conferences upon; and may insist that *France* should consent to Preliminary Articles in the Nature of those form'd, and on the part of the Allies Signed in 1709. You are in the first place, besides what is in these your Instructions before Directed, to Insinuate, that the *French* might very probably have been brought to Explain themselves further, had they not perceived the Extraordinary Uneasiness, Impatience, and Jealousie, which, during their Transactions with Us, discover'd themselves amongst Our Allies.

You are afterwards, in Our Name, to Declare to them, That if they are desirous to carry on the War, and Determin'd to accept of no Terms of Peace inferior to those which have been formerly Demanded, We are, on Our part, ready to concur with them, and to continue to Sacrifice the Blood and Treasure of Our Subjects, as We have hitherto done, for their greater Advantage and Security; but that We are in Justice bound, neither to deceive Our selves nor them; and do therefore, by you Our Ambassador and Plenipotentiary, Solemnly Declare, That We can no longer bear that disproportionable Burthen which has every Year been Encreas'd upon Us, nor that Deficiency which Our Allies in every part of the War are Guilty of. That it is Evident that the common Effort must be still greater against the Enemy than it is, or that there will remain no prospect of arriving at those Ends which are propos'd; That therefore it is incumbent on them, if the War be continued, to furnish for the future such Quota's of Ships and Forces, as they are at this time wanting in, and to encrease their Expence, whilst We reduce Ours to such a Proportion as in reason and in Justice both should be Settled at.

If on the part of the Ministers of *Vienna*, and of *Holland*, their Inability to do more than they have hitherto done, be Urg'd in answer to you, Our Pleasure is, that you finish by saying, That We think that We may Justly insist that they should comply with Us in War, or in Peace, since in the former case We require nothing but what it belongs to them to perform, and what is Essential to the Success of Our Arms; and since in the latter We have done, and to the last shall continue to do, all that is in Our Power towards obtaining such a Peace as may be to the Satisfaction of all Our Allies.

A. R.

October *the Second*, 1711.

Additional Instructions to the Earl of Strafford.

WHereas by an Article in your Instructions, bearing date the First Instant, you are to conclude the Conference which you shall have, upon your Arrival at the *Hague*, with the Ministers of the States General, by desiring all possible Dispatch may be given to the Choice of a Place of Treaty, and that Passports for the *French* Plenipotentiaries may be hastn'd: It is Our further Will and Pleasure, That as soon as the said Passports shall be promis'd, you do immediately give notice thereof, by a Courier, to the Court of *France*; or if the States General shall desire it of you, that you do send the said Passports to the Marquis *de Torcy*.

A. R.

N°. IX.

October 24. 1711.

Extract from the Regiſter of the Reſolutions of their High Mightineſſes the States General of the United Provinces, of Saturday *the 24th of* October, 1711.

IT having been deliberated upon what the Earl of *Strafford*, Ambaſſador Extraordinary and Plenipotentiary of Her Majeſty the Queen of *Great Britain*, has repreſented to the Counſellor Penſionary *Heinſius*, in order to be communicated to their High Mightineſſes, and on the Preliminary Articles deliver'd on the part of *France*, to come to a General Peace, alſo communicated to the Counſellor Penſionary *Heinſius*: It has been thought proper, and agreed upon, that the Anſwer to be given to the Earl of *Strafford*, ſhall be, That their High Mightineſſes having Examin'd the ſaid Articles with all poſſible Attention, have found them couch'd in Terms ſo General and Obſcure, as to deſerve great Conſideration; and that they have ſtrong Apprehenſions, that by entring upon them into a formal Negotiation, the Affairs of the Peace will be ſubject to many Delays, Incertainties, and other great Inconveniencies, which their High Mightineſſes earneſtly deſire may be avoided, that a Speedy, Good, and General Peace may be the ſooner come at. That for this reaſon their High Mightineſſes have Order'd the Sieur *Buys*, who is going to *England* in Quality of their Envoy Extraordinary, to communicate to Her Majeſty their Fears and Thoughts upon this Subject; and thereupon to Repreſent to Her Majeſty, That they judge it neceſſary in ſo important an Affair, in which having themſelves no other Aim but the Advancement of the Common Cauſe, and the mutual Intereſts of both Nations, they firmly rely upon the great Wiſdom, and the ſo much Renown'd Zeal of the Queen for the Common Good, that upon the Repreſentations to be made to Her on this Subject, She will be pleas'd to make ſuch Reflections, as the States believe an Affair of ſo great Conſequence to the Safety and the Publick Good deſerves: The ſaid Earl of *Strafford* is alſo deſir'd, that he will be pleas'd to contribute to this purpoſe by his good Offices.

N°. X.

A Memorial for Monſieur Gaultier.

Hampton-Court, *October* 29. 1711.

THE Queen has propos'd by the Earl of *Strafford* the Opening of the Conferences: The States General anſwer'd, they did not look on the Memorial Her Majeſty had ſent them as a ſufficient Foundation on which they might venture upon a Negotiation. Wherefore they had deferr'd proceeding any further in that Affair with the ſaid Miniſter, until they knew what Effect the Remonſtrances had which Mr. *Buys* their Envoy Extraordinary was Order'd to make to the Queen thereupon.

The ſaid Envoy has Repreſented to Her Majeſty, That the States are ready to concur with Her to facilitate the General Peace, but that they believe it is Hazarding too much to Open the Conferences, unleſs the General Article offer'd by *France* be Explain'd and Specify'd.

Her Majeſty, who has always foreſeen, and who ſtill foreſees how impoſſible a thing it would be to bring the Allies to Agree on a Plan of particular Preliminaries, and who remains firm in Her firſt Reſolution, to Open the Conferences on the Articles Sign'd by Monſieur *Meſnager*, has given Monſieur *Buys* Her final Anſwer on that Head, That She looks on thoſe Articles as containing in general all the

Pretenſions Her Allies can reaſonably form; That She ſtill perſiſts in the ſame Opinion; She renews Her Orders to the Earl of *Strafford*, to repeat his Inſtances with the States General to induce them to chooſe one of the Four Places that have been appointed for the Place of Congreſs; and to oblige them likewiſe to diſpatch Paſsports for his moſt Chriſtian Majeſty's Plenipotentiaries.

Things being in this Situation, Her Majeſty thinks, in order to the ſpeedy Opening of the Conferences, and for the greater Diſpatch of the Work of the Peace, it will be abſolutely Requiſite, the moſt Chriſtian King ſhould give Her Majeſty ſuch Explanations of his Deſigns, with reſpect to the particular Intereſts of the Allies, as he ſhall think fit, to induce them to Enter more willingly into a General Negotiation.

The *Dutch* Aim at nothing but their Barrier, and their Commerce, and provided the Queen can, without fear of being Diſown'd, Specify, within a ſmall matter, the Barrier which *France* is willing to Yield to them; and that She may aſſure them of the Tariff of 1664, there's no room to doubt but the States General will enter, without any difficulty, into the Negotiation as it has been concerted.

The Duke of *Savoy*'s Miniſters are allarm'd for their Barrier towards *France*. The Queen thinks it would not only be for the Quiet and Security of *Italy*, that this Prince ſhould be made more Powerful on that ſide: But Her Majeſty would be likewiſe very glad if She could give him ſome Aſſurances concerning a Barrier for his Country towards *France*: And Her Majeſty looks on that Article to be ſo Eſſential, that She hopes the Anſwer will be as favourable, and as particular as is poſſible.

The *Dutch* and the Duke of *Savoy* being Agreed on thoſe Heads with Her Majeſty, the greateſt Difficulties that may be rais'd to delay the General Peace, will preſently be remov'd, and the Conferences forthwith Open'd.

There are ſeveral Pretenſions of the other Allies included in the general Promiſe of a reaſonable Satisfaction, that muſt be Examin'd and Settled in the courſe of a Negotiation; as thoſe of the King of *Pruſſia*, and thoſe of the Electorate of the Duke of *Hanover*, on which, if the Queen was Authoriz'd to give Aſſurances on the part of *France*, it would be attended with this good Effect, That thoſe Powers would preſently come into Her Majeſty's Views and Meaſures.

There is no room to doubt, after all the Steps Her Majeſty has already made, but She has a ſincere Deſire to procure the general Quiet of *Europe*; and if Her Majeſty deſires that the moſt Chriſtian King would give an Explanation to the aforeſaid Demands, and to ſuch others as might happen concerning the particular Intereſts of other Confederated Princes, his moſt Chriſtian Majeſty may be Aſſur'd, the Queen will make no other uſe of the Confidence the King will have in Her, but to forward the Negotiation, in ſeeking the ſhorteſt and moſt effectual Means to attain a Peace ſo much wiſh'd for, that will be Honourable to his moſt Chriſtian Majeſty, and Secure and Equitable to the Confederates.

N°. XI.

Anſwer to the Memorial brought by Monſieur Gaultier, November 18. 1711.

THE King ſees with Pleaſure, that the Queen of *Great Britain* perſiſts with that Firmneſs worthy of Her, in the deſire She has expreſs'd of uſing the moſt ſpeedy and effectual Means for attaining an Honourable Peace to *France* and *Great Britain*, and which may be at the ſame time both Safe and Equitable, with reſpect to the other Powers engaged in the preſent War. His Majeſty intending alſo to Confirm by Deeds, the Aſſurances he has given of the Confidence he has in that Princeſs, His Majeſty thinks he cannot better expreſs his Sentiments, than by explaining himſelf on the Points of this Memorial, with as much Frankneſs as if the Peace was made, and as if there was already a ſtrict Alliance between him and the Queen of *Great Britain*.

So

So without considering that there has been no Mention made hitherto but of Preliminary Articles, and that the Queen of *Great Britain* does now desire Explanations on the particular Conditions which are to form the Treaty of Peace, the King is willing to entrust Her, as a Princess in Amity with him, with his Thoughts on the Detail of the chief Conditions of the Peace.

He is willing, as he has already declar'd, that the *Dutch* should have a Barrier sufficient to secure the Tranquillity of their Republick.

He is willing also that Trade be Restored and Maintained for the future to their Advantage, provided they will concur *bonâ fide* to the Re-establishment of the Peace.

As to the Barrier, it would be necessary, before it be Settled, to agree upon the Destination of the *Low Countries*, as the King of *Spain* has yielded them to the Elector of *Bavaria*, and that the King has Sign'd the Treaty thereof; if it should not be fulfil'd, the Elector would have his recourse to his Majesty to be Indemnified. He will therefore desire, that the *Dutch* should put into the Hands of the Elector of *Bavaria*, the Towns and Provinces possessed by them, or their Allies, in the *Spanish Netherlands*, so as that Prince may possess the same in Sovereignty after the Peace, in like manner as he now possesses the Towns and Provinces of *Luxemburg* and *Namur*, and the Places of *Charleroy* and *Nieuport*; the King will promise, That on condition of this Cession, the *Dutch* shall put Garrisons into the Strong Places of the *Low Countries*, which shall be Paid and Maintain'd at the Expence of the Country, so that those Provinces being Possess'd by an independent Prince, and Garrison'd by *Dutch* Troops, will form a Barrier, which alone would be sufficient to secure the Republick of *Holland* against any reasonable Apprehension of the Designs of *France*.

But the better to secure the States General against those vain Fears, the King is willing to engage his Word to the Queen of *Great Britain*, still to strengthen that Barrier, by quitting and yielding to the *Dutch* the Town of *Menin*, with its Verge, in giving them *Ipres* and its Chastellenie; but it must be observ'd that *Cassel*, *Poperingue*, and *Bailleul* do not make part thereof, and therefore his Majesty reserves them to himself.

In short, by yielding further, with the same regard to the Barrier, *Furnes* and the *Furn Ambach*; these are the Cessions the King is willing to make for the good of the Peace, but then these are the only ones his Majesty can Grant, unless he would leave Open the Frontier of his Kingdom.

As his Majesty is perswaded, that neither the Intention nor the Interest of the Queen of *Great Britain* are, that *France* should remain Naked, and always Exposed to the Designs of her Enemies; his Majesty expects to be strongly Supported by *England*, in the Demand he makes of the Restitution of the Towns of *Aire*, *Bethune*, *St. Venant*, *Douay*, *Bouchain*, and their Dependencies, which he pretends to Obtain by way of Compensation for the Places he Yields, to form the Barrier demanded by the *Dutch*.

He still renews the promise of Demolishing, immediately after the Conclusion of the Peace, all the Fortifications of *Dunkirk*, as well towards the Land, as towards the Sea, without any Exception; and as it was Settled between the King and the Queen of *Great Britain*, that a fitting Equivalent should be given for this Demolition, his Majesty demands *Lisle* and *Tournay*, with all their Dependencies and Chastellenies, to form the promised Equivalent.

Tournay is the ancient Domain of the Kingdom, it forms the Frontier of it, and it must be look't upon as a Place of Safety to *France*, rather than an Inlet into the Neighbouring Country; the King cannot receive a more publick Obligation from the Queen of *Great Britain*, than if She will contribute to the Restitution of a Place so necessary for Securing the Frontier of his Kingdom. On the other hand, it is indifferent to *England*, whether this Place returns, as formerly, under the King's Dominion, or whether it remains in the Hands of a Foreign Power; and the Interposition of the Queen of *Great Britain*, by Her good Offices on this occasion, will cement, for the future, a most strict Union between the Crowns of *France* and *England*.

However, if Her Majesty's good Offices should prove Fruitless, notwithstanding Her best Endeavours for procuring to his Majesty the Restitution of *Lisle* and *Tournay*, as an Equivalent for the Fortifications of *Dunkirk*, his Majesty Declares from

from this preſent time, but only to the Queen of *Great Britain*, That for the good of the Peace, he will be ſatisfied with the Reſtitution of the Town and Cittadel of *Liſle*, with the Chaſtelleny and Dependencies, without inſiſting on *Tournay*, being willing to content himſelf with this laſt Equivalent, rather than to retard, by more extenſive, tho' juſt Pretenſions, the Re-eſtabliſhment of the Tranquillity of *Europe*.

The Ceſſion of the Catholick *Low Countries* was made by the King of *Spain* to the Elector of *Bavaria*, only with a deſign to indemnifie him, for the Loſſes he ſuffer'd during the Courſe of this preſent War; but his Majeſty, and the King his Grandſon, are further engag'd by Treaties with that Elector, to reſtore him, by the Peace, to the Poſſeſſion of his Dominions, of his Rank, and of his Dignities; whereof he was deprived by the War, ſo his Majeſty will Demand, that this Prince reſume in the Electoral College the firſt Rank, which was transferred to the Elector *Palatine*; that the Upper *Palatinate* given to the ſaid Elector *Palatine*, be reſtored to the Elector of *Bavaria*, and in ſhort that the Diſmemberments made from the Chief Parts of the ſame Electorate, be Annulled, and things reſtored to their former order.

Even theſe Demands are not repugnant to the Intereſt of the *Dutch*, ſuppoſing that they will Conſent to leave the *Low Countries* to the Elector of *Bavaria*; for it is conſiſtent with their Maxims, that theſe Provinces ſhould be Poſſeſs'd by a Prince, whoſe Power ſecures their Barrier.

However, if they have different Thoughts with reſpect to the Elector of *Bavaria*, and that forgetting the firſt Engagements of that Prince with the Houſe of *Auſtria*, they are perſwaded that his Ties with *France* will never be weakened, if upon this Foundation, they think that his Power might at any time be Dangerous to their State, and that therefore it is neceſſary to Diminiſh the ſame; regard may be had to this fear, altho' ill grounded, by propoſing for the good of the Peace, to engage the Elector of *Bavaria*, to yield *Bavaria*, and the Electoral Dignity to the Prince his Eldeſt Son; whereof it would be neceſſary to conclude at the ſame time the Marriage with the Arch-Dutcheſs, Eldeſt Daughter of the late Emperor *Joſeph*. In this caſe it ſhould be Stipulated, that the Elector would be ſatisfied to Poſſeſs the *Low Countries* inſtead of *Bavaria*, with the condition that has been mention'd, of putting *Dutch* Garriſons into the Places, to be paid, and maintain'd at the Charge of the Country.

If theſe Propoſals ſhould be rejected, the King being engaged by his Treaties, to take care of the Intereſts of a Prince his Ally, demands that at leaſt, the Elector of *Bavaria* may keep the Provinces of *Luxemburg* and *Namur*, and that his Electorate, his Dignity, and his Rank may be Reſtored to him; but it would not be Juſt, that being reduc'd to Two Strong Places in the *Low Countries*, he ſhould be obliged to receive a *Dutch* Garriſon therein, which the Revenue of thoſe Two Provinces would not be able to Maintain. This Condition muſt be ſtruck out; which the King only propoſes in caſe all the *Low Countries* be intirely given to the Elector of *Bavaria*.

As the King doubts not, but the Queen of *Great Britain* thinks it Juſt, that the Elector *Palatine* ſhould reſtore the Upper *Palatinate*, his Majeſty thinks, that the Dutchy of *Limbourg* might be Separated from the *Low Countries*, and given to the Elector *Palatine*, to Indemnifie him for the Upper *Palatinate*, which he ſhould reſtore; this his Majeſty leaves to the Prudence and Juſtice of the Queen of *Great Britain*. However it be, it might be Agreed, that the Elector *Palatine* ſhould enjoy, during his Life, the Upper *Palatinate*, and the Firſt Rank in the Electoral College, and that after his Death, both ſhould return to the Elector of *Bavaria*, and his Succeſſor.

This Second Propoſal, with reſpect to the Elector of *Bavaria*, would bring no Alteration to the offer already made, of yielding to the *Dutch* for a Barrier, *Menin*, *Ipres*, *Furn*, and *Furn Ambach*, on the Conditions beforementioned.

But the manner in which they will uſe this Prince, will decide the Advantages the King will grant with reſpect to Trade.

If one of the preceding Propoſals is accepted, the King's Intention is, to Reeſtabliſh, in Favour of the *Dutch*, the Tariff of 1664. with the Exemption of the Duty of 50 *per* Tun, his Majeſty will particularize only ſome Exceptions to this Tariff, whereof the Detail is contain'd in a Memorial by it ſelf; he thinks himſelf oblig'd to Stipulate the ſame, not only to prevent the utter

Ruin of Trade, the Navigation, and the Manufactures Eſtabliſh'd in his Kingdom, but alſo to take away the Equivocations that might hereafter occaſion Complaints, and troubleſom Diſputes.

If it happens on the contrary, that the Propoſals made in Favour of the Elector of *Bavaria* be rejected, that he be obliged to content himſelf with the ſingle Reſtitution of *Bavaria*, perhaps diſmember'd from the Upper *Palatinate*, and the Elector be depriv'd of the Firſt Rank in the Electoral College; in this Caſe, his Majeſty will only grant to the *Dutch* the Tariff Sign'd in *May* 1699.

There would ſtill be another Indemnization more honourable, but far leſs uſeful, and which his Majeſty would nevertheleſs pay at the ſame rate of the Re-eſtabliſhment of the Tariff of 1664. with the Exceptions mention'd.

The *Dutch*, and their Allies, by refuſing the *Low Countries* to the Elector of *Bavaria*, would probably have the ſame yielded to the Arch Duke: The King will conſent thereto, and moreover, his Majeſty will diſpoſe that Elector to yield the whole Electorate of *Bavaria* to the Houſe of *Auſtria*, provided the Kingdom of *Naples* be given to that Prince.

The Proportion is not equal between that Kingdom of the one, and the *Spaniſh Netherlands* on the other part, with a Country like that of *Bavaria*, and ſo convenient to the Houſe of *Auſtria*; but the King undertakes to Supply the Loſs of the Elector of *Bavaria*, and to make, by the Indemnization, *England* a conſiderable Gainer.

The Means his Majeſty propoſes to ſucceed therein, is by engaging the King of *Spain* to yield *Sicily* to that Elector, ſo by poſſeſſing both Kingdoms, he would be indemnified for what he ſhould forſake otherwiſe, and the *Engliſh* would find their particular Advantage in the Conventions *England* might make with him for the Commerce in the *Mediterranean*. It is not indifferent to the Nation to be ſecure of the Prince who ſhall be Maſter of *Meſſina*, and the *Dutch* would eaſily prevent *England*, if ever *Sicily* ſhould fall into the Hands of the Arch-Duke. This Reflection will not have eſcaped the Wiſdom of the Queen of *Great Britain*, who ſhews likewiſe Her Regard to the Affairs of *Italy*, by the Article which concerns the Duke of *Savoy*.

The King's Intention is, punctually to perform the Convention Sign'd, in his Name, by Monſieur *Meſnager*, in relation to that Prince. His Majeſty will acquaint him therewith directly, ſince the Queen of *Great Britain* deſires it. The Silence his Majeſty has kept upon this Subject, was grounded upon this, That his Majeſty has no Correſpondence, either directly or indirectly, with the Duke of *Savoy*, he referring himſelf to that Princeſs to inſtruct him with what was Stipulated for him.

For what remains, the King is ſo far from oppoſing the Aggrandizement of the Duke of *Savoy*, on the ſide of *Italy*, that he thinks it would be the Advantage of that Part of *Europe*, that the reſt of the *Milaneſe* ſhould be Joyn'd with that Part, whereof that Prince is already Poſſeſs'd; he would even conſent with Pleaſure to Treat him then in Quality of King of *Lombardy*.

The King's Sentiments on this Occaſion being entirely agreeable with thoſe of the Queen of *Great Britain*, there is no room to doubt, but that Princeſs will alſo agree, that it is juſt that the Duke of *Savoy* ſhould be ſatisfied with the Old Barrier towards *France*, and that he reſtore the Places of *Exilles* and *Feneſtrelles*, both lying in *Dauphine*; his Majeſty confirming the Promiſe he has made of Reſtoring to him the Dutchy of *Savoy*, and the County of *Nice*; whereof the Conſideration is ſtill above the Importance of theſe two Places for the Frontier of the Kingdom.

Beſides theſe Explanations, the King will give, with an intire Confidence, to the Queen of *Great Britain*, all the Explanations She will be pleas'd to ask him, for the good of the Peace; and ſince She deſires to know, what are the Kings Diſpoſitions with reſpect to the Elector of *Brandenburgh*, and the Duke of *Hanover*; his Majeſty aſſures Her, that he will make no difficulty to acknowledge the Firſt, as King of *Pruſſia*, and the Second, as Elector, when the Peace is Sign'd. The Queen of *Great Britain*, may even make uſe of this Confidence, as She ſhall think moſt fitting for advancing the Peace, and be ſure that the King will not diſown Her.

In ſhort, the deſire which that Princeſs expreſſes, to Procure forthwith the general Tranquillity of *Europe*, ſeems ſo Sincere, that his Majeſty is further willing to Communicate to Her his Intentions on the Peace, to be made with the *Empire*; which are,

To acknowledge the Arch-Duke, as Emperor.

To reſtore to that Prince, and to the *Empire*, Fort *Kehl*, in the ſame Condition it is now in.

To cauſe the Forts built in the *Rhine*, and depending on *Strasbourg*, to be Demoliſhed.

To raſe the Fortifications built over againſt *Huningen* on the Right, and in the Iſland of the *Rhine*.

In like manner, the Fort built on the other ſide of the *Rhine*, overagainſt Fort *Louis*, as well as that part of the Bridge leading from the Iſland to the right hand Shore of the *Rhine*.

To demoliſh in general, all the Fortifications built, or rais'd on the other ſide of that River.

In ſhort, to reſtore to the Emperor the Town of *Briſac*, except nevertheleſs the Fort called *Mortier*, lying on the left, and on this ſide of the *Rhine*.

Upon theſe Conditions, which ſufficiently ſhew the King's deſire of leaving the *Empire* in Peace; his Majeſty deſires only for himſelf the Reſtitution of the Town of *Landau*; and for the Allies the Re-eſtabliſhment of the Elector of *Cologn*, in his Dominions, Benefices, and Dignities; referring himſelf, as to what relates to the Elector of *Bavaria*, to what has already been mentioned, with reſpect to that Prince.

The King expects with impatience the happy effects of the Application of the Queen of *Great Britain*, in contributing to the Re-eſtabliſhment of the Peace, and his Majeſty deſires with no leſs earneſtneſs a fitting time wherein he may give publick Proofs of his Sentiments for that Princeſs.

N°. XII.

St. James's, Decemb. 23. 1711.

The Queen's Inſtructions to my Lord Privy Seal, and the Earl of Strafford, *Her Plenipotentiaries for a General Peace.*

UPon your Arrival at *Utrecht*, you are to begin by concerting with the Miniſters of Our Allies, in what Manner it may be moſt proper to open the Conferences, and what Method to obſerve in the Progreſs of the Treaty. You will upon this, and upon all other Occaſions, earneſtly Repreſent to theſe Miniſters, the great Importance of appearing United; and for that reaſon, Recommend to them, That if any Difference or Diſpute ſhould ariſe, the ſame ſhould be accommodated amongſt your ſelves, that *France* may have no Hold to break in upon you; but on the contrary, whenever you meet the Enemies Miniſters in the Congreſs, every Opinion that is deliver'd, and every Inſtance that is made, may be back'd by the concurrent Force of the whole Confederacy.

In order to bring this great Work to a ſpeedy Iſſue, and to prevent, as much as poſſible, any Advantage which the Enemy might take by a long Negotiation of Dividing the Allies, or of Slackning their Preparations for another Campaign, you are to propoſe, that a time be fix'd for the Concluſion, as was done for the Commencement of theſe Conferences.

If it ſhall be thought proper to begin by the Diſpoſition of the *Spaniſh* Monarchy, you are to inſiſt, That the Security and reaſonable Satisfaction which the Allies expect, and which his moſt Chriſtian Majeſty has promis'd, cannot be

obtain'd,

obtain'd, if *Spain* and the *Weſt-Indies* be allotted to any Branch of the Houſe of *Bourbon*: And in caſe the Enemy ſhould object, as the Imperial Miniſters have done, That the Second Article of the Seven, Sign'd by the Sieur *Meſnager*, implies, that the Duke of *Anjou* ſhall continue on the Throne of *Spain*, you are to inſiſt that thoſe Articles, as far as they extend, are indeed binding to *France*, but that they lay neither Us, nor Our Allies under any poſitive Obligation; that they were receiv'd only as Inducements for Opening of Conferences; and that an Agreement to take Meaſures for preventing the Crowns of *France* and *Spain* from being ever United upon One Head, cannot be conſtrued by any means to imply, that the latter ſhould remain to the preſent Poſſeſſion, ſince by the Sixth Article of the Preliminaries made in 1709, this very Point was inſiſted upon, although in the ſame Preliminaries it was agreed, That the Duke of *Anjou* ſhould Abandon the Throne of *Spain*. In treating therefore upon this Head, You are to conſider, and Settle, in conjunction with Our Allies, the moſt effectual Meaſures for preventing the Crowns of *France* and *Spain* from being ever United upon One Head, and the Conditions which ſhall be agreed as neceſſary to this Effect, you are peremptorily to inſiſt upon.

Whether the great Article of the *Spaniſh* Monarchy ſhall be in the firſt place Adjuſted, or whether it ſhall be thought expedient to defer the Conſideration thereof; you are, in behalf of Our Allies, to demand of *France* the following Terms, with ſuch Extentions and Alterations, as the ſeveral Parties concern'd may be deſirous of, and as ſhall appear juſt and reaſonable. And for your better Information and Guidance, as well in reſpect to theſe Articles, as to others, the ſeveral Memorials and Repreſentations which We have receiv'd from divers Princes and States, concerning their Intereſts in the Treaty of Peace, are herewith deliver'd to you.

In the firſt place, with reſpect to the Intereſts of Our good Brother the Emperor, and of the Empire, you are to inſiſt, That the Town and Citadel of *Strasbourg* be reſtor'd to them in the ſame Condition they are at preſent, together with the Fort of *Kehl*, and the Dependencies thereof, Scituated on both ſides of the *Rhine*, without the Repayment of any Demand of Charges under any Pretext whatſoever, with One hundred Pieces of Braſs Cannon, of different Sizes, and Ammunition in proportion. That the ſaid Town of *Strasbourg* be likewiſe reſtor'd to the Rank, Prerogatives, and Privileges of an Imperial City; and do Enjoy the ſame in ſuch manner as they were Enjoy'd before it was brought under the Dominion of his moſt Chriſtian Majeſty, both in Eccleſiaſtical and Civil Rights; and you are to demand, that the ſaid Town and Forts be effectually Evacuated in ſuch time and ſuch manner, as ſhall be Agreed upon by you in Concert with Our Allies.

You are further to inſiſt, That the Town of *Briſac*, with its Territory, be Reſtor'd to his Imperial Majeſty, and the Houſe of *Auſtria*, with all the Cannon, Artillery, and Ammunition that are therein, to be Held and Enjoy'd by his ſaid Imperial Majeſty in ſuch manner as he ought to have Held and Enjoy'd the ſame, purſuant to the Treaty of *Ryſwick*.

You are to endeavour to procure, that his moſt Chriſtian Majeſty may hereafter have the Poſſeſſion of *Alſatia*, in ſuch wiſe only as appears to be according to the Literal Senſe of the Treaty of *Weſtphalia*, and by Virtue thereof, that he be contented with the Right of Prefecture over the Ten Imperial Cities, lying in the ſaid County of *Alſatia*, without extending the ſaid Right to the Prejudice of the Prerogatives, Rights, and Privileges which belong to them, as to other Free Cities of the Empire; but that his ſaid moſt Chriſtian Majeſty may enjoy the aforeſaid Right, together with the Prerogatives, Revenues and Demains, in like manner as he ought to have enjoy'd them at the time of the Concluſion of the Treaty abovemention'd.

You are to demand, That the Fortifications of the ſaid Ten Towns be put in the ſame Condition they were in at the time aforeſaid, except the Town of *Landau*; the Poſſeſſion and Propriety whereof you are to procure to the Emperor and the Empire, with Liberty to Demoliſh the Fortifications of that Place, if they ſhall think fit.

You are likewiſe to inſiſt, That his moſt Chriſtian Majeſty, in purſuance of the ſaid Treaty of *Weſtphalia*, do cauſe to be Demoliſhed in ſuch time as ſhall be agreed on, and at his own Expence, the Fortreſſes, which he has at preſent

ſent on the *Rhine*, from *Baſle* to *Philipsburg*, namely, *Huningen*, *New Briſac*, and Fort *Louis*, with the Works belonging to the ſaid Fort, on both Sides the *Rhine*, without ever Rebuilding the ſame.

You are further to demand, That the Town and Fortreſs of *Rhinfelt*, with its Dependencies, be put into the Hands of Our good Couſin the Landgrave of *Heſſe Caſtle*, until that Matter be otherwiſe Settled.

The Clauſe inſerted in the Fourth Article of the Treaty of *Ryſwick*, relating to Religion, being contrary to the Honour of the Treaty of *Weſtphalia*; you are accordingly to inſiſt, That the ſame be Revoked and Annulled, and that the State of Religion in *Germany* be Reſtored to the Tenour of the Treaty of *Weſtphalia* aforeſaid.

You are likewiſe to inſiſt, That his moſt Chriſtian Majeſty do acknowledge our good Brother the King of *Pruſſia* in that Quality; and that he do promiſe not to give to his ſaid *Pruſſian* Majeſty, any Diſturbance in the Poſſeſſion of the Principality of *Neufchatel*, and of the County of *Valengin*; and that he do reſtore the Principality of *Orange*, to thoſe to whom it ſhall appear by Law to Appertain, and ſuch other Eſtates as did belong to our late dear Brother King *William* the Third, which are now in the hands of *France*.

You are alſo to demand the acknowledging of the Electorate, which has been Erected in favour of the Duke of *Hanover*, now Elector of *Brunſwick* and *Lunenburg*.

And if any difficulty ſhall ariſe, concerning the time of acknowledging his *Pruſſian* Majeſty, and the Elector of *Hanover*, the Miniſters of *France* inſiſting not to do it until the Peace be Sign'd; and the Miniſters of theſe Princes, inſiſting to be received as the Miniſter of a Crowned Head, and of an Elector, at the Firſt Opening of the Congreſs, you are in ſuch Caſe, to endeavour by ſome Expedient to Reconcile the Diſpute. You may in the Firſt Place, Propoſe, that the Several Miniſters ſhould Confer, and Treat together, without Exchanging, or Producing their full Powers, until they come to Conclude and Sign; you may in the next Place offer, that the full Powers of the *Pruſſian*, and *Hanover* Miniſters be accepted with a Declaration, that this ſhall be of no Conſequence, unleſs the General Peace enſue. Thirdly, you may Endeavour to Terminate the Difference, by Preſſing to have the full Powers of all the Miniſters put into the Hands of ſuch Plenipotentiaries, as ſhall be Agreed upon by the Parties preſent.

As to Our good Brother the King of *Portugal*, you are to inſiſt that he have and enjoy all the Benefits and Advantages granted to him by the Treaties made between Us, Our Allies, and his ſaid Majeſty.

As to what relates to the Particular Intereſts of our good Friends, and Allies the States General, you are to Inſiſt, that the moſt Chriſtian King do Yield towards Forming a ſufficient Barrier to them, *Furnes*, *Fort Knock*, *Menin*, *Ipres*, *Liſle*, *Tournay*, *Conde*, *Valenciennes*, and *Maubeuge*, as likewiſe *Douay*, *Bethune*, *Aire*, *St. Venants*, and *Bouchain*, with their ſeveral Dependencies, and the Cannon, and Artillery, and Ammunition now being in ſuch of the aboveſaid Towns as are ſtill in the Hands of the *French*, to be Garriſoned in ſuch manner as is or ſhall be Agreed on between Us, and the ſaid States General, or others Concerned. You are further to Inſiſt on that Head, that his moſt Chriſtian Majeſty, do reſtore all the Towns, Forts, and Places belonging to *Spain*, which he at preſent Poſſeſſes, or has been in Poſſeſſion of, during the Courſe of this War in the *Spaniſh Low Countries*, together with the Cannon, Artillery, and Ammunition, now being and remaining therein, to the End, that ſuch Part of them, that have been, or ſhall be thought Fit, may alſo be Allotted for a Barrier to the States General.

You are to uſe your utmoſt Endeavours, that the Tariff of 1664, be granted by *France* to the ſaid States General, with the Suppreſſion of all other Tariffs made ſince that time; Revoking and Annulling all Edicts, Declarations, and Decrees contrary thereunto; that the Advantages of the Treaty of *Ryſwick* be likewiſe given to the States; and that the Exemption of Fifty Pence *per* Tun be allowed to all *Dutch* Veſſels, Trading to the Ports of *France*.

You are however to take especial Care not to suffer these Articles in favour of the States-General to be concluded, until the Treaty of Succession and Barrier be so explained, as to remove those apprehensions which We have as to the Consequence of it in some Points, concerning which you are already Instructed, and shall hereafter be more fully inform'd of Our Pleasure.

As to Our good Brother the Duke of *Savoy*, you are to Demand that he be put again into Possession of the Dutchy of *Savoy*, County of *Nice*, and all his Hereditary Countries and Places yielded to him by the Treaties made with the Emperor and others of the Allies; And that His Most Christian Majesty do likewise yield to the said Duke of *Savoy*, the Towns of *Exilles*, *Fenestrelles*, and *Chaumont*, together with the Valley of *Pragelas*, and all the Tract of Land lying between *Piedmont* and Mount *Genevre*, so that the said Mountain may serve hereafter as a Barrier between the Kingdom of *France* and the Principality of *Piedmont*.

When the Barrier of Our good Friends and Allies the States-General shall be under Consideration, or at any other time which in the course of this Negotiation shall to you appear most proper, you are to press the explaining, extending and settling the Sixth Article sign'd by the Sieur *Mesnager*, which relates to the Demolition of *Dunkirk*.

As to Our own Interests, you are to be particularly attentive to them in the whole course of this Negotiation, to make use of every Accident which may happen, and of every occasion which the several Allies may have of Our Assistance, in order to promote and secure the same with each of them.

Whereas by the Treaty of Barrier the Commerce of these Our Kingdoms to the *Spanish Netherlands*, and to such Places as by virtue of the said Treaty accrue to the States-General, is exposed to be lost, or at least to become precarious; And whereas the Sieur *Buys* their Envoy extraordinary to Us, has himself acknowledg'd the reasonableness of Our Apprehensions, and the Justice there is that We should be secur'd against any Prejudice which We have reason to fear may arise to Us from those great Accessions which they have, at the expence of the Blood and Treasure of Our Subjects, acquir'd:

You are therefore at the same time as you use your Endeavours with the Enemy, and such of the Allies as may be concerned therein to procure to the States-General the effect of the aforesaid Treaty, to insist that *Nieuport*, *Dendermonde*, the Castle of *Ghent*, and such other Places as may rather appear to be a Barrier against Us than against *France*, be either not put into the Hands of the *Dutch*, or that such Expedients be found for the doing thereof, as may secure the ingress and egress of Our Subjects in all the *Low-Countries*, as fully and effectually as if the said Barrier had not been granted to the States-General.

The Seventh Article of the Barrier Treaty giving a Power to the States-General, in case of an apparent Attack, or of War, to put so many Troops as they shall judge necessary into all the Towns, Places and Forts of the *Low-Countries*, you are to endeavour to have this Article so explain'd, as to be understood for the future only of an Attack from, or of a War with *France*, since nothing can be more unreasonable, than to leave it in the Power of the States-General to make use of the Ten Provinces against those to whom the Sovereignty of these Provinces may belong, or against the *British* Nation.

It must be your further Care, that a special Provision be made that Our Subjects may not suffer in their Commerce by any omission in the Fifteenth Article of the said Barrier Treaty, and that it be expresly stipulated that the Subjects of these Our Kingdoms shall Trade as free, with the same Advantages and Privileges, and under the same Impositions and no other, as they us'd to do when those Places were in the Hands of *France* or *Spain*, or as the Subjects of the States-General themselves have done, or shall at any time hereafter do.

Pursuant to what is beforementioned you are to make these Instances, and such others as shall be hereafter directed upon these Heads, wherein the Interests of Our Kingdoms, and of the Dominions of the States-General may interfere, at such time and in such manner, that Our Satisfaction may go Hand in Hand with the Settlement of their Barrier.

You are to inſiſt that the Moſt Chriſtian King do not only in the plaineſt and ſtrongeſt Terms, acknowledge the Succeſſion to the Crown of theſe Our Kingdoms, as the ſame is limited by Law to the Houſe of *Hanover*, but alſo the Perſon pretending a Right thereunto ſhall be immediately oblig'd to retire out of the Dominions of *France*, and that His Moſt Chriſtian Majeſty ſhall further Promiſe and Engage for himſelf, His Heirs and Succeſſors, never to acknowledge any Perſon to be King or Queen of theſe Realms beſides Ourſelf, and ſuch as ſhall ſucceed to Us by virtue of the Acts of Settlement now in force.

You are to Demand that a Treaty of Commerce may be as ſoon as poſſible commenc'd between Us and *France*; and that in the mean time ſuch Points may be ſettled as ſhall appear neceſſary to prevent the Doubts and Difficulties which may otherwiſe ariſe in the future Negotiation of this Matter.

The joint Poſſeſſion of the Iſland of St. *Chriſtopher* having been the occaſion of frequent Diſputes between Our Subjects and thoſe of the Moſt Chriſtian King, as well as of the effuſion of much Blood, you are to demand and inſiſt, that the Right to and Poſſeſſion of the ſaid Iſland do for the future remain to Us, and that the Moſt Chriſtian King do Renounce all Right, Title, Claim or Intereſt which he or any of his Subjects may have or pretend to have to or in the ſaid Iſland, or any part thereof.

As to our Intereſts in the North Parts of *America*, you are to be particularly careful, and to Demand in the firſt place the Reſtitution of the Bay and Streights of *Hudſon*, together with ſuch further Security for the Trade, and recompence for the Loſſes of this Company, as you ſhall be able to obtain.

You are in the next place to inſiſt, that *Placentia* and the whole Iſland of *Newfoundland* be yielded to Us by the *French*.

Thirdly, You are to Demand that His Moſt Chriſtian Majeſty ſhall quit all Claim or Title by Virtue of any former Treaty or otherwiſe, to the Country call'd *Nova Scotia*, and expreſly to *Port-Royal*, otherwiſe *Anapolis Royal*, which is now in our Poſſeſſion.

You are, in the fourth place, to endeavour in the beſt manner you poſſibly can, to deſcribe and fix the Bounds of the *Britiſh* and *French* Settlements in theſe Parts.

Beſides thoſe Advantages and Privileges which by virtue of any former Treaty or Agreement Our Subjects are entitled to in any part of the Dominions of the *Spaniſh* Monarchy, you are to inſiſt in the future Treaty upon the following Articles.

Firſt, That *Gibraltar* and *Port-Mahon*, with the Iſland of *Minorca*, be for the future annex'd to the Crown of theſe Realms.

Secondly, That the Contract call'd the *Aſſiento* for furniſhing Slaves to the *Spaniſh Weſt-Indies* be made for the Term of Thirty Years, with ſuch of Our Subjects as ſhall be by Us Nominated and Appointed, who ſhall enjoy all the Prerogatives, Privileges and Advantages which were yielded to the *French* by a Contract made with them in the Year 1702, or which ſhall appear neceſſary and reaſonable; particularly you are to inſiſt, that ſome extent of Ground on the River of *Plate* may be aſſign'd, upon which Our Subjects may not only refreſh their Negroes, but keep them in Security until they ſhall be diſpos'd of to the *Spaniards*.

Thirdly, You are to take care that a general Article be inſerted, by virtue whereof all Advantages, Rights and Privileges which have been granted, or which may hereafter be granted by *Spain* to the Subjects of any Nation whatſoever ſhall be in like manner granted to the Subjects of *Great-Britain*.

Fourthly, In ſettling the Trade of Our Subjects to the *Spaniſh* Dominions, you are to endeavour to obtain ſuch Exemptions of Duties upon all Goods and Merchandizes of the Product or Manufacture of theſe Kingdoms, as ſhall amount to an advantage of at leaſt 15 *l. per Cent.*

You have herewith delivered to you ſuch Propoſals and Obſervations, relating to Our Intereſts in Commerce, as have been prepared and made by Our Commiſſioners for Trade and Plantations; together with the Petitions and Repreſentations of Our *Turkey* and *Eaſt India* Companies, and of other Our Subjects; of all which, and of ſuch others as ſhall hereafter be tranſmitted to you, you are to make the beſt uſe you ſhall be able, for the Relief of Our Subjects, and for the Improvement of Commerce.

And whereas We have directed a State to be prepar'd of ſuch Demands as We may juſtly make, not only on account of the Expences which We have been at for Our good Friends and Allies the States General, but alſo on account of thoſe immenſe Summs which We have furniſh'd for the uſe of Our good Brother the Emperor, you are hereby requir'd, as ſoon as this State ſhall be tranſmitted to you, to inſiſt upon Satisfaction for as much as ſhall thereby appear to be due to Us.

And whereas we think Ourſelves oblig'd on all Occaſions to exert Our Zeal in behalf of the Proteſtant Religion and Intereſt, We cannot conclude theſe Our Inſtructions without directing you to concert with the Miniſters of the States General and Our other Proteſtant Allies, the moſt proper and effectual Methods for reſtoring to their Religious and Civil Rights the Proteſtants of *France*, and particularly for the immediate Relief of ſuch as may at this time be in the Gallies.

Our Will and Pleaſure is, in the laſt place, that you do from time to time obſerve and follow ſuch further Inſtructions and Directions as you ſhall receive from Us or one of Our Principal Secretaries of State, with whom you are conſtantly to correſpond, and give Us, by him, an account of all your Proceedings in theſe important Affairs, and of all other material Occurrences, which may come to your knowledge, during the Courſe of this your Employment for Our Service Abroad.

A. R.

N° XIII.

A Specifick Explanation of the Offers of France *for a General Peace, to the Satisfaction of all the Powers intereſted in the preſent War. Deliver'd* February *the* 11*th* 1712.

THE King will acknowledge, at the Signing the Peace, the Queen of *Great Britain*, in that Quality, as well as the Succeſſion to that Crown, according to the preſent Eſtabliſhment, and in the Manner the moſt agreeable to Her *Britannick* Majeſty.

His Majeſty will cauſe all the Fortifications of *Dunkirk* to be demoliſhed immediately after the Peace, having an Equivalent to his Satisfaction.

The Iſland of St. *Chriſtophers*, the Bay and Streights of *Hudſon* ſhall be yielded entirely to *Great Britain*, in like manner *Accadie*, with its Fort and Fort Royal, ſhall be entirely reſtor'd to His Majeſty,

As to *Newfoundland*, the King offers to yield it again to *Great Britain*, reſerving to himſelf only the Fort of *Placentia*, and the Right of Fiſhing and Drying of *Cod-Fiſh*, as before the War.

He will agree to make a Treaty of Commerce before or after the Peace, at the choice of *England*, of which the Conditions between the two Nations ſhall be made as equal as poſſible.

The King will conſent, at the Signing the Peace, that the *Spaniſh Low-Countries* yielded to the Elector of *Bavaria* by the King of *Spain*, ſhall ſerve as a Barrier to the united Provinces; and to enlarge it, he will add thereto *Furnes* and its Diſtrict, *Knocke*, *Ipres* and its Diſtrict, *Menin* and its Diſtrict. In exchange

His

His Majeſty demands, for forming the Barrier of *France*, *Aire*, *St. Venant*, *Douay*, *Bouchain* and their Dependencies.

If the States General will keep Gariſons in the ſtrong Places of the Barrier thus formed from the Countries yielded to His Electoral Highneſs, and from what *France* ſhall add thereto, His Majeſty conſents that they may put therein their Troops in as great Number as they pleaſe; and further, that they be maintained at the Charge of the Country.

For this Ceſſion and Conſent, the King on his part demands, for the Equivalent of the Demolition of *Dunkirk*, the Cities and Citadels of *Lille* and *Tournay*, with their Chaſtellenies and Dependencies.

The Barrier thus regulated between *France* and the States General, the King will agree to augment the Commerce of their Subjects, which is ſtipulated by the Treaty of *Ryſwick* and the advantageous Tariff of 1664, excepting only ſix ſorts of Merchandize, of which it ſhall be agreed, and which ſhall remain charged with the ſame Duties as they now pay, together with the exemption of fifty Sols *per* Tun, upon the *Dutch* Ships coming into *France* from the United Provinces, and from foreign Countries.

As to the Commerce of *Spain* and the *Indies*, the King will promiſe, not only to the States General, but alſo to *Great Britain* and to all the other Powers, by virtue of an Authority which he has for that purpoſe, that the Commerce ſhall be made exactly and entirely after the ſame manner that it was made under the Reign and until the Death of *Charles* the Second, and will promiſe, that the *French* ſhall be ſubject, as well as all other Nations, to the ancient Laws and Rules made by the Kings, Predeceſſors of His Catholick Majeſty, in relation to the Commerce and Navigation of the *Spaniſh Indies*.

His Majeſty further conſents, that all the Powers of *Europe* ſhall enter into a Guaranty of this Promiſe.

His Majeſty promiſes, that the King his Grandſon ſhall renounce, for the good of the Peace, all his Pretenſion to the Kingdoms of *Naples* and *Sardinia*, as well as to the Dutchy of *Milan*, which he will conſent in the ſame Name, that the part yielded to the Duke of *Savoy* do remain to His Royal Highneſs; provided that for this Ceſſion the Houſe of *Auſtria* ſhall likewiſe deſiſt from all Pretenſion upon the other parts of the Monarchy of *Spain*, from whence it ſhall draw its Troops immediately after the Peace.

The Frontiers of both ſides upon the *Rhine*, ſhall be put in the ſame State as they were before the preſent War.

For all theſe Conditions abovementioned, the King demands, that the Electors of *Cologn* and *Bavaria* be Re-eſtabliſhed in the full and entire Poſſeſſion of their Eſtates, Dignities, Prerogatives, Goods movable and immovable, which they enjoyed before the preſent War; and His Majeſty will reciprocally acknowledge in *Germany* and in *Pruſia*, all the Titles which to this time he has not acknowledged.

The King ſhall reſtore to the Duke of *Savoy* what he hath taken from him during this War; in like manner His Royal Highneſs ſhall reſtore to him what he hath taken from *France*, ſo that the Bounds on both ſides ſhall be the ſame as they were before the Declaration of War.

All things in *Portugal* ſhall be re-eſtabliſhed and remain upon the ſame foot in *Europe* as they were before the preſent War, as well in regard to *France* as *Spain*: And as to the Dominions which are in *America*, if there be any difference to regulate, Endeavours will be uſed to agree it amicably.

The King will voluntarily and *bonâ fide* conſent, to concert with the Allies the moſt juſt Meaſures whatever to hinder the Crowns of *France* and *Spain* from being ever reunited upon one and the ſame Head; that is to ſay, that one Prince be at the ſame time King of both.

All the precedent Treaties, that is to ſay, thoſe of *Munſter* and the following ones ſhall be Ratified and Confirmed, to remain in their Force and Vigour; excepting only thoſe Articles from which the Treaty of Peace now to be made, ſhall have derogated or changed any thing.

Huxelles.

N° XIV.

Lords Plenipotentiaries to Mr. Secretary St. John, 6 March 1712.

Extract.

THE Conference in order to communicate our ſeveral Demands, was held Yeſterday; and all produc'd theirs, except the Imperial Miniſters, who having but then receiv'd their Courier from *Vienna*, deſir'd time to prepare theirs. At this latter Meeting Count *Sinzendorff* inſiſted with great Earneſtneſs that each Ally ſhould in their ſeveral Demands, make expreſs mention of, and inſiſt upon the Reſtitution of the whole Monarchy of *Spain*, that having been the great Object of the War; the Miniſter of *Portugal* join'd in this Requiſition: After a long Silence Count *Sinzendorff* preſs'd Us and the *Dutch* to explain Ourſelves: We ſaid, Her Majeſty had thought it moſt proper each Ally ſhould make their own Demands, and a general Clauſe to ſupport each other in obtaining a juſt and reaſonable Satisfaction was ſufficient, eſpecially ſince the Words, *en Conformité de Ses Alliances*, were in it: This We remain'd by.

The *Dutch* being again preſs'd in like manner, retir'd; and, after a long Debate among themſelves, being return'd, ſpoke to the ſame Purpoſe: We had done, adding that *Spain* and the *Indies* ought to be demanded by thoſe it immediately concern'd; and Mr. *Buys* reaſon'd very much at large, that the Method We had put things in, could not ſuffer it to be otherwiſe. Count *Sinzendorff* and his Collegue parted with great Diſcontent, the former ſaying with much Concern, This would be a fatal Day for the Grand Alliance, *&c.* Here We thought this Diſpute had ended, but this Morning the *Dutch* Plenipotentiaries deſir'd We would come to the Town-Houſe a little before the time of Meeting; thoſe of *France* being come, they preſs'd Us with the neceſſity of giving Count *Sinzendorff* ſome Content, and at laſt declar'd they were reſolv'd to do it: accordingly coming into the Room where the Allies Miniſters meet, they ſaid, That ſince they perceiv'd the Arguments they us'd laſt Night had not given Content, they had now thought fit to go further, and accordingly declar'd the States General were reſolv'd to make good all their Treaties made on occaſion of this War, as well thoſe that related to *Spain* and the *Indies*, as thoſe made with *Portugal*, *Pruſſia*, *Savoy* and others.

Upon this We immediately went to the Conference with the *French*, to deliver Our ſeveral Demands; while We were there We conſidered the diſadvantageous Conſequences of being the only Miniſters that did not make any mention at all of *Spain* and the *Indies*, even at Our Conferences among Ourſelves, and thought it might be proper to ſay ſomething to take off that Odium; wherefore, being return'd to the Apartment of the Allies, Lord Privy Seal ſaid, We are unwilling to ſpeak more than We had done, till after We had given in Our Demands to *France*, becauſe We could not ſee but the mentioning any one ſpecially in Our Demands, would naturally have drawn on the mention of more; but at preſent, to give the Satisfaction ſo earneſtly deſired, We own'd, that as Her Majeſty inſiſts for a juſt and reaſonable Satisfaction for all Her Allies in conformity to Her Alliances, thoſe Alliances that may concern *Spain* and the *Indies*, are underſtood thereby as others that concern the Intereſts of the reſt of the Allies. We humbly hope what was ſaid by Lord Privy Seal on this Occaſion will not be found contrary to what has hitherto been declared, and that as it goes no further than to juſt and reaſonable, it does not import any new Obligation.

No XV.

The Anſwer to the Memorial brought by Monſieur Gaultier, *the 23d of* March 1712.

28 *March* 1712.

Extract,

THE laſt Article of the Memorial certainly requires much Diſcuſſion, and to be maturely examined; the Matter is ſo important that one ought to depend upon the firſt Views and Conceptions of it; the more ſpecious they are, the more dangerous it is to be miſled by a Perſwaſion of their being eaſily executed.

France can never conſent to become a Province of *Spain*, and *Spain* will likewiſe think the ſame in reſpect to *France*; it is therefore our Buſineſs to take ſolid Meaſures to hinder the Union of the two Monarchies; but we ſhould abſolutely depart from the End propoſed, and ſhould fall into infinite Misfortunes, worſe, if it be poſſible, than what we would unanimouſly avoid, if we act contrary to the fundamental Laws of the Kingdom.

According to theſe Laws the moſt near Prince to the Crown is of neceſſity the Heir thereto, 'tis an Inheritance that he receives neither from the King his Predeceſſor, nor from the People, but from the Benefit of the Law: So that when one King dies, the other ſucceeds him forthwith, without asking the Conſent of any Perſon whatſoever. He ſucceeds not as Heir, but as the Maſter of the Kingdom, the Seignory whereof belongs unto him, not by Choice, but by Right of Birth only.

He is not beholden for his Crown, either to the Will of his Predeceſſor, or to any Edict, nor to any Decree, nor to the Liberality of any Perſon, but to the Law. This Law is looked upon as the Work of him who hath eſtabliſhed all Monarchies, and we are perſwaded in *France*, that GOD only can aboliſh it.

No XVI.

Whitehal, March 23d 1711. *V. S.*

Mr. Secretary St. John *to Monſieur de* Torcy.

SIR,

I Was anſwering your Letter of the 20th of this Month *N. S.* the Day before Yeſterday, when a Courier brought me that of the 28th, with a Memorial of the ſame Date.

The Queen believes Mr. *Gaultier* will have given you Satisfaction upon the Points contained in the firſt, and Her Majeſty has commanded me, without loſs of Time, to communicate to you Her Sentiments, in regard to the Article of the Union of the Two Monarchies, upon which your laſt Diſpatch generally run.

The Facilities which have been receiv'd from hence, for the Concluſion of a General Peace, have been expected from the Queen, or than any other Power could have contributed. The firſt Motive that Her Majeſty had to make all theſe Steps, has been a firm Truſt, founded upon the ſo often repeated Aſſurances, on the Part of His Moſt Chriſtian Majeſty, that he would conſent to take all the Meaſures neceſſary to hinder for ever, that Union of ſo ill Conſequence to all *Europe*.

The Expedient that Mr. *Gaultier* has been inſtructed to propoſe, is the only one which ſeems to the Queen capable of giving the leaſt hope of preventing this Inconveniency, and Her Majeſty obſerves, that the Propoſition contain'd in your Memorial, does but confirm and make the Queen and Her Allies Parties to a Plan which has been, and which is now more than ever the Object of their Fears.

It is not neceſſary that I ſhould enter into the Particulars of the Objections upon which we might inſiſt. You are, Sir, of too clear a Genius not to ſee them in their whole Extent and Force. The Queen relies too much upon the Equity

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of the King your Maſter, and the ſincere deſire he has always ſhewn for a General Peace, to be capable of imagining, that he will require her to content herſelf with a Surety of ſo little Solidity as that propoſed in the Memorial; or that ſhe ſhould ſuffer that the Caſe might happen, that he that ſhall be in poſſeſſion of the Crown of *Spain*, ſhould have the Right to ſucceed to the Crown of *France*: Who would then aſſure us that this Prince would not make uſe of his Power to keep the one, and to acquire the other, rather than ſhow a Moderation without Example?

We are ready to believe that you are perſwaded in *France*, that GOD alone can aboliſh that Law upon which your Right of Succeſſion is founded; but you will give Us leave to be perſwaded in *Great Britain*, that a Prince may depart from his Right by a voluntary Ceſſion, and that he in favour of whom that Renunciation is made, may be juſtly ſupported in his Pretenſions, by the Powers which become Guaranties of the Treaty.

In ſhort, Sir, the Queen commanded me to tell you, that this Article is of ſo great Conſequence, as well for Herſelf as for the reſt of *Europe*, for this preſent Age, as for Poſterity, that She will never agree to continue the Negociations of Peace, unleſs the Expedient She has propoſed be accepted, or ſome other equally ſolid.

I diſpatch, however, a Courier to the Lords Plenipotentiaries, to communicate to them the Queen's Orders upon this Subject, and I muſt tell you they cannot accept of any Plan for a General Peace, as reaſonable as it may be in other Reſpects, if they don't receive Satisfaction upon the means to hinder this Union.

It would be in effect, Building upon the Sand, taking unneceſſarily many Precautions to make a Peace, and not have prevented a Danger ſo great and ſo probable as this.

We ſee with a great deal of Satisfaction, that you wiſh this new Propoſition ſhould be look'd on only as a firſt Thought; let us do what we can on each ſide, that our ſecond Thoughts may nearer meet, and let us not leave imperfect a Work which hath been ſo advanc'd, ſpight of that vigorous and general Oppoſition.

I am rejoic'd that the King has been pleas'd to recompence the Services of Mr. *Gaultier*, by giving him an Abbey. He will not fail to be uſeful at *Utrecht*, and what is certain, he will find the Queen's Miniſters in the Diſpoſition to ſhorten the Negociation. I beg you would be perſwaded that I am, *&c.*

No XVII.

Mr. Torcy *to Mr.* St. John. *8th* April 1712.

I Receiv'd by the Courier, return'd from *London*, the Letters you honour'd me with of the 23d and 24th of *March*, O. S. and obſerv'd with a great deal of Pleaſure in the laſt, that you thought the Conditions of the Treaty of Peace would be ſoon adjuſted to common Satisfaction, if the means of preventing the Reunion of the Monarchies of *France* and *Spain* could be ſettled and agreed on.

I believe, Sir, that it cannot be impoſſible to find out an expedient which all *Europe* is equally concern'd to ſettle; and ſince you do not altogether ſtick at that which Mr. *Gaultier* propos'd to me on your part, I hope ſecond Thoughts upon this Matter may prove more ſucceſsful than the firſt. If it is not yet entirely to your Satisfaction, be pleas'd to communicate to me what may be added to it, or rather taken from it. In ſhort, let us labour earneſtly and without prevention for the concluſion of a Work of ſo great Importance as that of the Peace.

As the principal Difficulty which ſtill oppoſes the concluſion of it, is the trouble to find ſufficient Security to prevent the dangerous Reunion of the Monarchies of *France* and *Spain*, the King propoſes to conſent by the Treaty of Peace, of which all the Powers of *Europe* ſhall be Guarantees, that if ever the King of *Spain*, *Philip* V. or the Prince his Son, or any of their Children who ſhall ſucceed them to the Kingdom of *Spain*, becomes either the next and preſumptive Heir, or the Succeſſor of the Crown of *France*, and prefers it to the

Crown

Crown of *Spain*, That of *Spain* ſhall belong of full Right to the Prince whom they ſhall fix upon by the ſame Treaty to poſſeſs it; That not only King *Philip* ſhall Sign and Ratify this Condition of the Treaty, but moreover that all the Powers of *Europe* ſhall enter into an Engagement with *France* to maintain this Article; ſo that if the Prince of the Houſe of *France*, that ſhall Reign in *Spain*, has a mind to aſſert his Right to the Crown of *France* in the manner I juſt now obſerv'd, he ſhall be oblig'd to Renounce his own Right, and that of his Deſcendants to the Crown of *Spain*, to Depart from thence and to go to *France* with all his Children, Princes and Princeſſes.

That if he prefers the Crown of *Spain* to that of *France*, or the Quality of Heir and immediate Succeſſor to the Crown of *France*, he ſhall be obliged to Renounce in favour of the Line which ſhall follow neareſt his own, and which ſhall remain in *France*, his own Right and that of his Children to the ſaid Crown of *France*; ſo that in this caſe, the Catholick King, or he that ſhould Reign in his ſtead, ſhould have the Choice as being eldeſt; but he cannot poſſeſs the Two Monarchies together, or inherit that of *France* and leave *Spain* to one of his Children.

If you ſhould ask, Sir, what Precaution muſt be taken to ſettle ſuch a Renunciation as I have laid before you, as being contrary to the Order eſtabliſhed in *France* for the Succeſſion to the Crown, I anſwer firſt, that there is no room to ſuppoſe that the King of *Spain* would prefer the Crown of *Spain* to that of his Forefathers, for a thouſand Reaſons eaſy to comprehend, and too tedious to lay down.

Secondly, That if he was ſo ill adviſ'd to make ſuch a Choice, the ſecureſt Precaution would be what you inſinuate in one of the Letters you honoured me with, *viz.* a ſolemn Engagement which all the Powers of *Europe* ſhould enter into by the Treaty of Peace, to maintain a diſpoſition made with the View of preſerving the general Liberty and Repoſe of *Europe*.

Since the Clauſe of the Will of the late King of *Spain*, *Charles* II. which appoints the Duke of *Berry*, appears rather a new Obſtacle to the Peace, than an Expedient capable of preventing the Union of the Two Monarchies, it ſeems neceſſary to conſent that the King of *Portugal* poſſeſs himſelf of the Crown of *Spain*, as ſoon as the King of *Spain* ſhould be call'd to the Succeſſion of *France*, and ſhould prefer it to the Crown of *Spain*.

The Marriage of the King of *Portugal* with a Princeſs of the Houſe of *Auſtria* would countenance the diſpoſition to be made in favour of this Prince; but if it be not convenient to think of him to be King of *Spain*, they may on the ſame Foundation chooſe that Prince who would marry one of the Arch-Ducheſſes, Daughters of the Emperor *Joſeph*.

In ſhort, the Duke of *Savoy* being nominated by the Wills of the late Kings of *Spain*, in default of the Houſe of *Auſtria*, he may likewiſe be choſen; but as a King of *Spain*, Maſter both of *Piedmont* and *Savoy*, would be a dangerous Neighbour to *France*; the King would find himſelf obliged to demand for a Barrier, not only the Reſtitution of *Exilles* and *Feneſtrelles*, but even the Ceſſion of *Savoy* and the County of *Nice*.

To ſettle more firmly the Tranquility of *Europe*, it may be agreed upon by the Treaty of Peace, that the Meaſures taken to prevent the Union of the Two Monarchies be received and confirmed by the Courts, or States of the Kingdoms of *Spain*.

I wiſh, Sir, this Plan may be agreeable to the Intentions and Sentiments of the Queen of *Great Britain*, and I cannot but hope ſo, ſince it is your own Thought to guaranty the Renunciations by the Powers who ſhall ſign the Treaty of Peace; and no better Care can certainly be taken to confirm the validity of theſe Acts, than to ſtipulate them by a ſolemn Treaty, of which all *Europe* is concerned to back the Execution.

The King orders me to acquaint his Plenipotentiaries of what I have the Honour to write to you; and I hope, Sir, that the good Underſtanding and Correſpondence between His Majeſty and the Queen of *Great Britain*, will daily encreaſe in ſuch a manner, that the Enemies to the Peace ſhall have no room to triumph. You will have the pleaſure to ſilence ſuch as are ſo; and I deſire no leſs the ſatisfaction of finding opportunities to aſſure you how truly I am, *&c.*

De Torcy.

Mr.

Number XVIII.

Mr. St. John *to Monſieur* De Torcy, *April* 6. 1712.

I Anſwer now the Letter which you did me the Honour to write to me the 8th Inſtant, N. S. and which I receiv'd by the ſame Meſſenger who brought me your former.

Be aſſur'd, Sir, that we will go on vigorouſly, and without prevention, in accompliſhing the great Work of the Peace, the Conditions whereof will ſoon be ſettled to the common Satisfaction, provided we agree on the Means to prevent the Union of the two Monarchies of *France* and *Spain*. You ſee, Sir, I am ſtill of the ſame Opinion.

Each of our Allies has his own private Ends; they are not all perhaps limited within the Bounds of Reaſon; there are ſeveral beſides, inconſiſtent one with another. It is not neceſſary theſe Points ſhould be ſo ſtrictly taken notice of; and reciprocal Condeſcenſions will not fail reducing all theſe Differences to a juſt and reaſonable Medium. But the Article concerning the Union of the two Monarchies, is of that Nature and Importance, that the leaſt falſe Step in it cannot but prove fatal; and all the Advantages that could poſſibly be ſtipulated, would be paid for too dearly, in accepting of an Expedient too weak to obviate ſo real a Danger.

I muſt confeſs, Sir, that ſecond Notions prove better than the firſt; and that they clear up many Difficulties, at the ſame time that they diſſipate moſt of our Apprehenſions. To avoid all Equivocation, and to prevent the leaſt Miſunderſtanding on ſo nice a Subject, you'll give me leave to explain in what Senſe her Majeſty takes the Words you make uſe of, and the Scheme you offer by the King's Order. You propoſe then, that the Prince, who at preſent reigns in *Spain*, ſhall not wait, according to your former Plan, till the Crown of *France* falls to him, for to chuſe which of the two he likes beſt; but that as ſoon as he becomes either immediate Succeſſor of the Crown of *France*, or preſumptive Heir, he will be oblig'd to declare his Choice, and you ſettle the ſame Rule for his Iſſue.

Now, Sir, the Queen thinks the Objection which has been made to your former Propoſition, may in ſome meaſure take place as concerning this: For in either of the two Caſes you lay down, how will *Europe* be certain that ſuch a Choice will be made? All the Powers, you'll ſay, will be Guarantees of that Convention. Such a Guaranty indeed may form a Grand Alliance, to wage War againſt the Prince who will offer to break the Conditions of the Treaty; but we ſeek the Means rather to prevent than ſupport new Wars.

Finally, Sir, muſt not one confeſs that there appears no Expedient effectually able to ſecure *Europe* from the Dangers wherewith it is threaten'd, by the Union of the two Monarchies, unleſs the Prince, who at preſent is in poſſeſſion of *Spain*, makes his Choice at this very Inſtant; and unleſs, according to that Choice, the Order of the two Succeſſions be ſettled in the General Treaty of Peace?

Her Majeſty remarks with very great Pleaſure, that this Plan does not much differ from that which his Moſt Chriſtian Majeſty has caus'd to be communicated to Her. Let us, in the firſt place, argue, if you pleaſe, on the Suppoſition, that the above-mention'd Prince will chuſe the Crown of his Anceſtors preferably to that of *Spain*.

There is in nature but one Caſe alone, that may happen to render our Propoſal leſs advantageous to him than yours.

Pardon me, Sir, if I make two Suppoſitions, very diſagreeable, but neceſſary for the better underſtanding the Queſtion we are examining. If the young Dauphin ſhould chance to die, the Prince we are talking of would be immediate Succeſſor of the Crown of *France*; in this Caſe then he can loſe nothing in chuſing the Crown of *France* now aforehand.

His Moſt Chriſtian Majeſty (whom God preſerve for many Years) happening to die, the ſame Prince would be preſumptive Heir of the Crown of *France*. In this Caſe how ſhould he be a Loſer, in making his Choice as the Queen deſires? Can it be ſaid he runs the hazard to quit *Spain*, without gaining *France*? You ſee, Sir, he would be expos'd to the ſame Inconveniency by your own Scheme. From all that I have ſaid, the Queen's Opinion is, Sir, that it follows, It will equally be advantageous to the Prince now in queſtion, to chuſe the Crown of *France* at preſent, or to do it in any of the two Circumſtances ſet down in your Letter: and you will be doubtleſs

doubtleſs convinc'd, that the Security of *Europe* will be eſtabliſh'd infinitely better one way than the other.

If we argue on the Suppoſition, that this Prince will chuſe the Crown of *Spain*, it is beyond diſpute, in the Firſt Place, That it is much better for him and for us, that this Declaration ſhould be made during the Congreſs at *Utrecht*, than at any other time. Secondly, That the Guarantee of the Powers of *Europe* will be much abler to prevent his Return to *France*, contrary to the formal Renunciation that he ſhall have made of this Right, than to force him to quit a Crown, whereof he will be in poſſeſſion, and to depart from a Pretenſion which he has not renounc'd.

I have, as clearly as poſſible, laid before your Eyes, Sir, the Queen's Thoughts on the Contents of your laſt Letter; her Majeſty ſeeks but the common Safety, the Moſt Chriſtian King has the ſame Views. In God's Name, to be over-nice in the Negotiation, let us not loſe thoſe Benefits which we are ready to reap. Let the King your Maſter, and the Queen my Miſtreſs, ſhare in the Glory of giving Peace to *Europe*; and let thoſe, who are deſirous to break the Conferences by the Events of the Campaign, find their Projects overturn'd, by the ſpeedy Concluſion of the Treaty.

On one hand, his Moſt Chriſtian Majeſty may ſecure the peaceable Poſſeſſion of the Crown of *Spain* to his Grandſon; on the other hand, he may ſtrengthen the Succeſſion of the Crown of *France*, for ever prevent the Union of the Empire with *Spain*, and procure to his Kingdom very conſiderable Advantages: on both ſides he may ſet *Europe* free from Apprehenſions and Fears, and perfect a Work as glorious as that of a definitive, ſecure, and laſting Peace.

By the Letters of Meſſieurs the Plenipotentiaries, dated the 12th inſtant, N. S. I underſtand we are to expect, within a few days, the Arrival of Monſieur *Gaultier*, and that he is to bring with him a Plan of the General Peace which was form'd at *Utrecht*. We hope his Moſt Chriſtian Majeſty will explain himſelf on that Subject, after ſuch a manner, as the Queen may make the neceſſary Declarations to ſecure the Succeſs of our Negotiations. I'll tell you, as a Man who moſt ſincerely wiſhes for Peace, that the Condeſcenſions that may be expected from the Queen, depend on the Reſolution which will be taken concerning the Grand Article of the Union of the two Monarchies. I am, *&c.*

Henry St. John.

Number XIX.

Monſieur Torcy *to Mr.* St. John, *April* 26. 1712.

THEY eaſily agree, Sir, where Intentions are ſincere, and Deſires equal on both ſides to arrive to the ſame End. I obſerv'd with a great deal of Satisfaction, by the Letter you honour'd me with of the 6th Inſtant, O. S. that the Plan I propos'd to you, has clear'd ſeveral Difficulties, and diſſipated many Objections. I hope likewiſe, that the Anſwer you return'd in it, will perfect the Work begun.

According, Sir, to what you writ me, the only Difference there is between the Propoſition I made to you by the King's Command, and the Project of the Queen, depends entirely on the Time when the King of *Spain* ſhall declare the Choice he intends to make, either to maintain his Right to the Crown of *France*, or keep that of *Spain*.

In my Propoſition, the making his Choice was refer'd to the Time, when this Prince ſhould become either immediate Succeſſor, or preſumptive Heir of the Crown of *France*: and the ſame Condition was obſerv'd in reſpect of his Progeny.

You obſerve, Sir, that in deferring till then, a Choice ſo eſſential to the Tranquillity of *Europe*, it cannot be certain that there will be one made, if ever ſuch an unhappy occaſion ſhould happen, that the Guaranty of all the Powers, who ſhall be concern'd in the Treaty, ſhall form a ſufficient Alliance to declare War to the Prince who ſhould violate the Conditions of the Peace: but the End that ought at preſent to be propos'd, is, to hinder the renewing of the War, and not to ſeek Means to ſupport thoſe which ſhould ariſe upon this occaſion.

You then conclude, that to prevent the Reunion of the Monarchies of *France* and *Spain*, it is neceſſary that the Catholick King ſhould now declare his Choice, without

without waiting the unhappy Event, which we hope will never happen; but that it muſt, in the mean time, be ſuppos'd, and Care taken, that this Choice may eſtabliſh the Order of the Succeſſion, by the Treaty of the General Peace.

Your Obſervations, Sir, and the Conſequences which may be drawn from them, are equally juſt; the Catholick King muſt calm the Uneaſineſs of *Europe*; in declaring at preſent what Part he will take, if ever the Succeſſion of *France* is open in his Favour. Indeed it will be perhaps ſome Uneaſineſs to him, to declare at preſent to the *Spaniards*, that he would abandon them, and go to *France*, if one of the two Caſes, which you ſuppoſe, ſhould happen. A Nation, uncertain of the Maſter ſhe ſhall have, may prove leſs faithful to him that actually reigns; but this Inconveniency ought to ſubmit to the General Good. Thus, Sir, the King approving your Propoſition, diſpatches a Courier to *Spain*, and writes to the King his Grandſon, to let him know the neceſſity of reſolving on the Choice he will make, and declare it, to the end it may be inſerted in the Treaty of the General Peace, and that it may be made a Condition of it, whereof all *Europe* ſhall be Guarantee.

I hope, Sir, the King of *Spain* will conform himſelf to the Council of the King; but if it ſhould happen, what I cannot believe, that he will not ſubmit to it, his Majeſty will take all the Meaſures the Queen of *Great Britain* ſhall judg proper, to determine of Neceſſity, and even by Force, the Choice of the King of *Spain*, and to ſecure to *Europe* the Peace, which at preſent appears ſo far advanc'd.

I am confident there will no occaſion be given of coming to ſuch an Extremity; but the King is willing I ſhould inform you of his Reſolution in this Matter, as being a new Mark of the ſincere and true Deſire of his Majeſty, for the ready Concluſion of a ſafe and ſolid Peace. I look upon it at preſent very much advanc'd, and that the principal Difficulty, which might ſtill render it more acceptable, ſeems remov'd; but in the mean time, we muſt expect new Difficulties from thoſe who would willingly break the Conferences. I believe the beſt way to ſubvert their Deſigns, would be for the Queen of *Great Britain* to propoſe immediately a Suſpenſion of Arms, for they ground their Hopes on the Event of the Campaign. And as I find, by your Letter, that her *Britannick* Majeſty is diſpos'd to make the neceſſary Declarations for eſtabliſhing the Succeſs of the Negotiations, it is my Opinion, that the Propoſition of a Suſpenſion might make part of thoſe Declarations.

I have detain'd Mr. *Gaultier* here ſome days longer than he ought to have ſtaid, in expectation of your Anſwers, thinking it neceſſary he ſhould be inform'd of your Sentiments before he ſets out for *England*; he will inform you, Sir, of the King's Intentions on the Demands of your Allies. I hope, that as the moſt difficult Point is now regulated, you will have Reſpect only to the Juſtice and Solidity of the Peace; and that the Queen of *Great Britain*, acting by theſe great Motives, will give the laſt Marks of the Deſire ſhe has to eſtabliſh with the King a perfect good Correſpondence.

I receiv'd, Sir, by the ſame Courier, the Letter you honour'd me with of the 11th Inſtant, O. S. I am very ſorry for the Indiſpoſition of my Lord Treaſurer, and earneſtly wiſh his immediate Recovery. It is very reaſonable that thoſe who have had, like you and him, the principal Part in the Management of the Peace, ſhould have the Honour to bring it to perfection. I hope we ſhall ſoon ſee the Succeſs of it, and deſire you will believe that, at all times whatſoever, no one ſhall be with greater Truth than I am, Sir, *&c.*

De Torcy.

Number XX.

Mr. St. John *to Monſieur* De Torcy, *April* 29. 1712.

SIR,

THE Plan you propos'd, in your Letter of the 8th of *April*, appear'd to us to remove many Difficulties, and diſſipate divers Cauſes of Fears; but by reaſon of having miſunderſtood the Intentions of the King, and ill explain'd thoſe of the Queen, we now find our ſelves farther than we had hoped, from agreeing upon the Grand Article of the Peace.

It is very true, that the only Difference there is between the Propoſition you made me by the King's Order, in the Senſe we comprehended it, and that which I

ſent

ſent you by Order of the Queen, relates only to the Time when the Prince in queſtion ſhall make his Choice, either to preſerve his Right to the Crown of *France*, by renouncing that of *Spain*; or to keep that of *Spain*, by renouncing that of *France*. But you do not propoſe therein, Sir, that the Execution ſhall accompany the Choice, which is abſolutely neceſſary to render this Peace definitive.

The Abbot *Gaultier* explains quite otherwiſe the King's Intentions; and I obſerve that you ſay the Prince, who reigns in *Spain*, muſt calm the Inquietude of *Europe*, by declaring now the Part he will take, if the Succeſſion of *France* is ever open'd in his Favour. After this manner our great Work will not be much advanc'd by the laſt Propoſition.

If we had underſtood it according to the Explication that you now give it, you ſee, Sir, that we ſhould have fallen into a very great Abſurdity; ſince in rejecting your Project, we ſhould have drawn up another, againſt which all the Objections we made, and which were found even in *France* juſt and well founded, would have equally taken place. For tho the Prince who reigns in *Spain*, makes his Choice from this time, what greater Security ſhall *Europe* have, if the Execution of this Choice is refer'd to another time? In offering that he ſhall be oblig'd to declare his Choice from this time, you are already agreed that neither the Stipulations of a Treaty, nor the Guarantee of the Powers engag'd in this War, can be capable to ſecure that the Choice ſhall be made; how then can we conclude that they can be capable to ſecure that, when either of the Caſes ſhall happen that we are with Regret oblig'd to foreſee, and to ſuppoſe, he will quit one Crown to hold another, according to the Choice that he ſhall have made, and which ſhall have been inſerted in the Treaty of the General Peace?

The Queen has often declar'd that it would be impoſſible for her to be contented with any Expedient, which was not very ſolid, touching an Article of ſo great Importance as that of the Re-union of the Two Monarchies. To do otherwiſe, would be to loſe the Fruits of all the Blood the Allies have ſpilt in the Courſe of this War; it would be at laſt to betray the Common Cauſe of *Europe*, and to expoſe the preſent Age, as well as thoſe which are to come, to one of the greateſt Dangers that the Imagination can form.

Her Majeſty ſincerely deſires the Peace, She deſires it reaſonable for *France*; but to come to this Iſſue, the Intereſt of *France* muſt not be render'd inconſiſtent with the General Security.

It muſt be done ſo as the time can never happen, in which the ſame Prince ſhall have both the Crown of *Spain* upon his Head, and his Succeſſion open to that of *France*.

If this Prince, of whom we ſpeak, is not contented with *Spain*; or if *France* will not; in paſſing him by, too much weaken their Succeſſion; muſt we for this Reaſon, the Peace being made, take up Arms, and be in a continual Apprehenſion of ſeeing the War renew'd? The Queen can never conſent thereto, and Her Majeſty thinks there is not one of the Allies who will ſubmit to ſo hard a Condition.

To ſhew nevertheleſs that ſhe is ready to contribute all in her Power to ſatisfy his moſt Chriſtian Majeſty, without wounding her Honour, and without ſacrificing her Intereſts and thoſe of her Confederates, the Queen orders me, Sir, to propoſe to you an Expedient, by which King *Philip* may preſerve his Right to the Crown of his Anceſtors, and find a Recompence for *Spain*, which in this caſe he ſhall be oblig'd to abandon.

Her Majeſty therefore propoſes, That this Prince do immediately retire with his Family out of *Spain*; That the Duke of *Savoy* do tranſport himſelf thither at the ſame time with his, and take poſſeſſion of that Monarchy and the *Indies*; That King *Philip* may enjoy the Kingdom of *Sicily*, the Hereditary Countrys of his Royal Highneſs, with the *Montferrat*, *Mantuan*; and in caſe he ſucceeds to the Crown of *France*, That *Sicily* returns under the Obedience of the Houſe of *Auſtria*, but that the other Countrys may remain to him, and be hereafter look'd upon as Provinces of *France*. The Queen would deſire that this Propoſition might appear to come from his moſt Chriſtian Majeſty, to be an Effect of his Moderation, and a Sacrifice that he is willing to make, to draw *Europe* out of the Diſorder it is now in, and to re-eſtabliſh the General Tranquillity.

Her Majeſty thinks ſhe has now given all the Facilities in her Power to conclude the Peace, and hath asked nothing but what is neceſſary for accompliſhing that Promiſe which the moſt Chriſtian King made, when he declar'd himſelf ready

dy to take all juſt and reaſonable Meaſures to hinder the Crowns of *France* and *Spain* from being ever re-united upon the Head of one and the ſame Perſon.

The Queen commands me to add, That ſhe hopes the Propoſition I have made by her Order, will be accepted; but however ſhe inſiſts that the Anſwer you ſend me be categorical and final.

The Circumſtances we now find our ſelves in, as well as the Seaſon of the Year, do not admit that we remain any longer in Uncertainty, whether we ſhall have War or Peace.

The Parliament, to whom her Majeſty hath promiſed the Communication of what ſhe would treat on the Subject of Peace, will become impatient, and the Queen cannot excuſe her ſelf from communicating to them the Anſwer ſhe ſhall receive to this Letter. The Armies are in the Field, and the Events of one day's time may entirely change the face of Affairs: how much ſoever diſpoſed the Queen is to facilitate the Negotiation of the Peace, and to ſave the Effuſion of Blood, ſhe cannot however declare for a Suſpenſion of Arms, before ſhe knows the Reſolution of the moſt Chriſtian King upon the Expedient propos'd to prevent the Re-union of the two Monarchies.

If I tell you nothing, Sir, touching the Plan of the General Peace, which the Abbot *Gaultier* alſo brought us, 'tis becauſe the Queen does not look upon the Differences which it contains as too difficult to be adjuſted, provided the Article of the Re-union be once paſſed; and becauſe if we are not happy enough to ſucceed in treating of this Expedient, it would be but a needleſs Trouble to negotiate upon other Points. I am, *&c.*

H. St. John.

Number XXI.

Monſieur de Torcy *to Mr.* St. John, *May* 18. 1712.

SIR,

I Have receiv'd the Letter you did me the favour to write to me of the 10th Inſtant, and am very ſorry to ſee there was ſo great difference, as you tell me, between the Propoſition you made me by order of the Queen, and the Anſwer the King commanded me to make to you: for want of underſtanding one another, we have unhappily loſt a time, of which every moment is precious; and now we muſt have a new Deciſion from the King of *Spain* upon a Plan which had been propoſed to him in a different Senſe to what you underſtood it.

I confeſs, Sir, I ſhould fear that this Explication would produce new Difficultys at the Court of *Madrid*, if the King had not reſolved to ſurmount all the Objections her Majeſty can make upon an Article which is to be the Baſis of the Peace, and likewiſe to ſacrifice the Intereſts of his Houſe for the Re-eſtabliſhment of the publick Tranquillity.

'Tis therefore to remove theſe Difficulties, that the King now makes two Propoſitions to the King his Grandſon: Firſt, To renounce by the Treaty of Peace, for himſelf and his Deſcendants, all his Right to the Crown of *France*, and content himſelf with *Spain* and the *Indies*.

The Second, To preſerve his Right to the Crown of *France*, but at the ſame time to yield *Spain* and the *Indies* to the Duke of *Savoy*, and content himſelf in Exchange with the Countries the Duke of *Savoy* now poſſeſſes; that is to ſay, with the Principality of *Piedmont*, the Dutchies of *Savoy* and *Montferrat*, and County of *Nice*. Laſtly, to keep the Kingdom of *Sicily*, whereof the Catholick King now is Maſter. Provided always that if he ſhould one day come to the Crown of *France*, he ſhould keep only the Countries now belonging to the Duke of *Savoy*, and that in this caſe the Kingdom of *Sicily* ſhall belong to the Houſe of *Auſtria*.

It were to be wiſhed that the King could at preſent know the Intentions of the King his Grandſon, upon one or the other of theſe two Alternatives; but we muſt unavoidably wait for the Return of the Courier that his Majeſty diſpatches to *Madrid*.

He has commanded me nevertheleſs to aſſure you, that the Treaty of Peace ſhall be made upon the Baſis of the one or the other of theſe two Propoſitions; *viz.* Either the King of *Spain* ſhall renounce his Right to the Crown of *France*, to keep

keep only *Spain* and the *Indies*; or that he ſhall conſent to the Exchange of *Spain* and the *Indies* with the Eſtates of the Duke of *Savoy*, on the Conditions I have now acquainted you with. You are therefore, Sir, to look upon what I write to you by the King's Order, as the final Anſwer that you deſire, and which ought to remove all Uncertainty upon the Peace, or upon the Continuation of the War.

It is probable, Sir, that the Peace would ſtill be more certain, if a Suſpenſion of Arms could be agreed upon on both ſides, and might, ſince at preſent each ſide may well expect an happy Concluſion: but it muſt be left to the Prudence of the Queen to examine what ſhe ſhall think moſt agreeable to the general Good, which ſhe deſires as much as any Perſon.

It would be very ſad, if any Event ſhould happen during the Campaign to diſturb the good Diſpoſitions which are now apparent for eſtabliſhing the publick Tranquillity. I hope, Sir, you will very ſoon give the laſt Hand thereto; and I pray you to believe, that no one can honour you more perfectly, nor be more truly than I am, Sir, *&c.*

De Torcy.

Number XXII.

Memorial from Mr. St. John *to Mr.* de Torcy, *relating to* North America, *Commerce, and the Suſpenſion of Arms*, May 24. 1712. O. S.

TO end all Diſputes ariſen about *North America*, the Queen propoſes:

I.

That his moſt Chriſtian Majeſty ſhould yield to her the Iſland of *Newfoundland*, with *Placentia*, and all the Fortifications, Artillery, and Ammunitions thereto belonging, the little adjacent Iſlands, and the neareſt the Iſland of *Newfoundland*; as alſo *Nova Scotia*, or *Acadie*, according to its antient Limits.

II.

That the Subjects of his moſt Chriſtian Majeſty may continue to fiſh, and dry their Fiſh upon that part of *Newfoundland* which is call'd the *Petit Nord*, but on no other part of the ſaid Iſland.

III.

That his Majeſty's Subjects may enjoy, in common with the Queen's, the Iſland of Cape *Breton*.

IV.

That the Iſlands in the Gulph of *St. Laurence*, and in the Mouth of the River of that Name, which are at preſent poſſeſſed by the *French*, may remain to his moſt Chriſtian Majeſty; but expreſly upon condition that his ſaid Majeſty ſhall engage himſelf not to raiſe, or ſuffer to be raiſed, any Fortifications in th ſe Iſlands, or in that of Cape *Breton*. The Queen engages her ſelf likewiſe not to fortify, or ſuffer any Fortifications to be rais'd in the adjacent Iſlands, and thoſe next *Newfoundland*, nor in that of Cape *Breton*.

V.

The Queen inſiſts to have the Cannon and Ammunitions of War, in all the Forts and Places of the Bay and Streights of *Hudſon*.

Relating to Commerce.

As ſome Difficulties are ariſen, which hinder our giving the finiſhing Stroke to the Treaty of Commerce between the two Nations of *Great Britain* and *France*, ſo ſoon as could have been wiſhed, by reaſon of many Prohibitions made, and many exceſſive Duties eſtabliſhed in the ſaid Kingdoms: And as it is neceſſary for the Subjects of both ſides, that the Commerce between the two Nations be open'd, and have its effect as ſoon as poſſible; the Queen would have many Propoſitions to make his moſt Chriſtian Majeſty thereupon. But as theſe Points would require a longer time to be diſcuſs'd than the preſent Criſis does permit, the Queen being more inclin'd to confirm the general Tranquillity, than private Advantages, contents her ſelf with making two Demands, which ſhe believes can meet with no difficulty.

I. That

I.

That in caſe we do not agree upon the Points in diſpute, relating to Commerce, Commiſſaries be named on each ſide, who ſhall meet at *London* to examine and regulate the Duties and Impoſitions that ſhall be paid in each Kingdom; and that they be adjuſted in ſuch a manner, that by it the Commerce between the two Nations be encouraged and enlarged.

II.

That no Privilege or Advantage in regard to the *French* Trade, ſhall be granted to any foreign Nation, which ſhall not be granted at the ſame time to the Queen of *Great Britain*'s Subjects. In like manner, no Privilege or Advantage relating to the Trade of *Great Britain*, ſhall be granted any foreign Nation, that ſhall not at the ſame time be granted to the Subjects of his moſt Chriſtian Majeſty.

Relating to the Suſpenſion of Arms.

The Queen will conſent to a Suſpenſion of Arms for the Term of two Months, upon condition,

I.

That in the ſaid Term, the Article which relates to the Reunion of the two Monarchys ſhall be punctually and entirely executed. That is to ſay, Either that King *Philip* ſhall renounce in that Term, for himſelf and his Deſcendants, his Rights to the Crown of *France*; and ſhall conſent that his Renunciation be inſerted in the Treaty for a future Peace: or that in this Term he ſhall leave *Spain* with his Family, yielding up that Kingdom and the *Indies* to the Duke of *Savoy*, on the Conditions mention'd in my Letter of the 29th of *April*, O. S. and accepted by that from M. *de Torcy* of the 18th of this Month, N. S.

II.

That the *French* Gariſon ſhall go out of the Town, Citadel, and Forts of *Dunkirk*; and that the Queen's Troops ſhall enter it the day the Suſpenſion of Arms ſhall begin: and that that Place ſhall remain in the Queen's hands till the States-General ſhall have conſented to give his moſt Chriſtian Majeſty an Equivalent for the demoliſhing of it, with which he ſhall be contented. It being underſtood, that in this caſe his moſt Chriſtian Majeſty ſhall be oblig'd to demoliſh all the Fortifications of that Place, to fill up the Harbour, and deſtroy the Sluices, in the manner the Queen's Plenipotentiaries have required.

III.

In caſe the States-General do conſent to a Suſpenſion of Arms at the ſame time with the Queen, it ſeems reaſonable to grant them the liberty of putting a Gariſon in *Cambray*, on the Day the ſaid Suſpenſion ſhall have its effect.

H. St. John.

Number XXIII.

Marly, *June* 10. 1712. *The Anſwers of the King to the Memorial ſent from* London, *June* 5. 1712. N. S.

ARTICLE I.

HIS Majeſty conſents to yield to the Queen of *Great Britain* the Iſle of *Newfoundland*, with the City of *Placentia*, as now fortify'd; but the Artillery and Ammunition with which that Place is provided, ſhall be taken from thence, and ſhall not be comprehended in the Ceſſion which ſhall be made of that Place, and of the Iſland, for they are not to be eſteem'd as belonging either to the one or the other: and to uſe a common Compariſon, one may look upon the Artillery and Ammunition of a Place as Movables of an Houſe, that a private Man carries away with him when he yields that ſame Houſe by a voluntary Contract.

The Iſles adjacent to that of *Newfoundland* were neither demanded nor promiſed by the Articles ſign'd at *London* in the Month of *October* laſt: As theſe Articles have ſerv'd as a Rule in the Beginning and in the Progreſs of the preſent Negotiation, the King's Intention is to follow exactly the ſame Rule, as the moſt ſure one to come to the Concluſion of the Treaty; and his Majeſty is perſuaded that the Queen of *Great Britain*, faithful to her Word, will not inſiſt upon a new Demand, and which does not appear in the Convention ſign'd in the Name of that Princeſs.

The

The King is willing to add to that Convention the Ceſſion of *Acadie* according to its antient Limits, as it is demanded by the Queen of *Great Britain*.

II.

The Articles ſign'd at *London* reſerve to the Subjects of the King the Power of Fiſhing and Drying of Cod-Fiſh upon the Iſle of *Newfoundland*. A Diſpoſition made and agreed to, can neither be reſtrain'd, nor receive any Alterations but thoſe which are reciprocally judg'd to be conformable to the common Advantage.

Upon this Foundation the King offers to leave to *England* the Artillery and Ammunition of *Placentia*, the Iſles adjacent to that of *Newfoundland*; to forbid the *French* the Liberty of Fiſhing or Drying of Cod-Fiſh upon the Coaſt of that Iſle, likewiſe upon that part call'd the *Petit-Nord*; to add to theſe Conditions the Ceſſion of the of Iſles *St. Martin* and *St. Bartholomew* adjoining to that of *St. Chriſtopher*: if for this new Offer the Queen of *Great Britain* conſents to reſtore *Acadie*, of which the River of *St. George* ſhall hereafter make the Boundaries, as the *Engliſh* heretofore pretended to it.

It is therefore at the Choice of the Queen of *Great Britain*, either to keep to the Articles ſign'd at *London*, or to accept the Exchange that his Majeſty propoſes. In this laſt Caſe his Majeſty will endeavour to facilitate all that ſhall depend on him, to conclude the Affair of the Ranſom of the Iſland of *Nevis* to the ſatisfaction of *England*.

III.

As the perfect good Underſtanding that the King propoſes to eſtabliſh between his Subjects and thoſe of the Queen of *Great Britain*, will, if it pleaſe God, be one of the principal Advantages of the Peace, we muſt remove all Propoſitions capable of diſturbing this happy Union: Experience has made it too viſible, that it was impoſſible to preſerve it in the Places poſſeſs'd in common by the *French* and *Engliſh* Nations; ſo this Reaſon alone will ſuffice to hinder his Majeſty from conſenting to the Propoſition of leaving the *Engliſh* to poſſeſs the Iſle of Cape *Breton* in common with the *French*. But there is ſtill a ſtronger Reaſon againſt this Propoſition; as 'tis but too often ſeen that the moſt amicable Nations many times become Enemies, it is Prudence in the King to reſerve to himſelf the Poſſeſſion of the only Iſle which will hereafter open an Entrance into the River of *St. Laurence*; it would be abſolutely ſhut to the Ships of his Majeſty, if the *Engliſh*, Maſters of *Acadie* and *Newfoundland*, ſtill poſſeſs'd the Iſle of Cape *Breton* in common with the *French*; and *Canady* would be loſt to *France* as ſoon as the War ſhould be renew'd between the Two Nations, which God forbid; but the moſt ſecure means to prevent it, is often to think that it may come to paſs.

IV.

It will not be diſſembled, but 'tis for the ſame Reaſon that the King is willing to reſerve to himſelf the natural and common Liberty as all Sovereigns have, to erect in the Iſles of the Gulph, and in the Mouth of the River of *St. Laurence*, as well as in the Iſle of Cape *Breton*, ſuch Fortifications as his Majeſty ſhall judge neceſſary: Theſe Works made only for the Security of the Country can never be of any Detriment to the neighbouring Iſles and Provinces.

It is juſt that the Queen of *Great Britain* ſhould have the ſame Liberty to erect what Fortifications ſhe ſhall think neceſſary, whether in *Acadie*, or in the Iſle of *Newfoundland*: and upon this Article the King does not pretend to exact any thing contrary to the Rights which the Propriety and Poſſeſſion naturally give to that Princeſs.

V.

The King is willing, thro a particular Conſideration of the Queen of *Great Britain*, to leave to her the Cannon and Ammunition which ſhall be found in the Forts and Places of the Bay and Streights of *Hudſon*, notwithſtanding the ſtrong Reaſons that his Majeſty may have to take them from thence, and tranſport them elſewhere.

Article of Commerce.

As the King ſincerely deſires that all Cauſe of Diviſion between his Majeſty and the Queen of *Great Britain* ſhould ceaſe as ſoon as may be, it would be very agreeable to him to ſee all Diſputes relating to Commerce ſettled at *Utrecht* between his Plenipotentiaries and thoſe of *England*: But if it is impoſſible to remove the Difficulties about this Matter before the Concluſion of the Peace, rather than to delay it, his Majeſty conſents to the two Demands made in the Name of that Princeſs.

I.

To name Commiſſaries, who ſhall meet at *London* to examine and regulate the Duties and Impoſitions to be paid in each Kingdom.

II.

II.

That *France* and *England* do reciprocally engage to give to the Subjects of both Crowns the ſame Privileges and Advantages, with which any Nation whatſoever ſhall be favour'd.

Article of a Suſpenſion of Arms.

So ſhort a Term as two Months will ſtill leave, to the Enemies of Peace, Hopes of being able to diſturb the Negotiation before the end of the Campaign. The King, perſuaded of the good Intentions of the Queen of *Great Britain*, thinks it for the Common Good, to extend this Term to four Months.

I.

It ought to be ſufficient to compleat the ſurmounting all the Difficulties of the Treaty, the principal being already remov'd, by the firm Reſolution that the King of *Spain* hath taken, to renounce for himſelf and his Deſcendants, the Crown of *France*, and to keep *Spain* and the *Indies*; and this Renunciation ſhall be inſerted in the Treaty of Peace.

II.

After having eſtabliſh'd the Beginning and the Courſe of the Negotiation upon a good Faith and mutual Confidence, of which the happy Effects are already felt, we muſt baniſh all Diſtruſt, and even the Appearance of Suſpicion, when each Party comes, in their Propoſal, near the End that both Sides propoſe to themſelves. The King leaves it to the Equity of the Queen of *England* to judge, whether the Demand of putting an *Engliſh* Gariſon into *Dunkirk*, during the Suſpenſion of Arms, has nothing in it diſobliging to him, and if the Publick would not look upon it as a Doubting his Majeſty's Exactneſs to ſatisfy his Promiſes. He knows that the Queen of *England* is very far from harbouring ſuch a Thought, having receiv'd too many Proofs to the contrary. The King alſo having for a long time look'd upon the Queen as a Friend, notwithſtanding the Continuation of the War, is perſuaded that ſhe will deſiſt from ſuch a Demand, not only as being uſeleſs, but capable of producing an Effect, contrary to the Intentions of that Princeſs.

For it is certain the Aim her Majeſty has, is only to oblige the *Dutch* readily to give to the King an Equivalent for the Fortifications of *Dunkirk*, which his Majeſty promiſes ſhall be demoliſh'd.

We muſt then overcome their Stubbornneſs, and let them ſee, that if they perſiſt, the Damage thereof ſhall fall upon themſelves; but it is not threatning them, to declare to them that the *Engliſh* Troops ſhall keep the City, the Citadel, and the Forts of *Dunkirk*, till the States-General ſhall have given to the King an Equivalent, wherewith his Majeſty ſhall be ſatisfy'd. The King alone would ſuffer by the new Obſtacles they will raiſe againſt the Peace; and it is by contrary ways that that Republick muſt be conſtrain'd to become more flexible.

As 'tis the King's true Intention to preſs the Demolition of all the Fortifications of *Dunkirk* in general, his Majeſty propoſes, that immediately after the ſigning of the Treaty of Peace with the Queen of *Great Britain*, a Body of *Engliſh* Troops ſhall encamp under *Dunkirk*; and that thoſe Troops, the Number whereof ſhall be fix'd, may jointly work with his, in razing all the Fortifications.

The Condition of filling up the Port, and ruining the Sluices, depends, as the King has explain'd himſelf, upon the Reſtitution that his Majeſty has demanded of *Tournay* and its Diſtrict. He renews again the ſame Engagement. The Ruin of the Sluices will occaſion the Ruin of the Country adjacent to *Dunkirk*; Friends and Enemies will equally ſuffer thereby. The King could wiſh to ſave this needleſs Deſtruction, which the Queen of *Great Britain* has not perhaps enough conſider'd. His Majeſty is willing that this be again offer'd to the Queen's Conſideration, tho he is reſolv'd to do, upon this Article, what ſhall be moſt agreeable to that Princeſs, for the Reſtitution of *Tournay* and its Diſtrict.

III.

The Peace is neceſſary to all *Europe*, the King deſires it as a General Good, and his Majeſty looks upon the Suſpenſion of Arms as a Means almoſt neceſſary to attain it; but he would refuſe all Suſpenſion, would break likewiſe the Negotiation of Peace, if either the Suſpenſion or Peace depended upon the admitting a *Dutch* Gariſon into *Cambray*, during any Space of Time that may be. He will never conſent to a Propoſition ſo contrary to his Honour, to his Intereſt, and to the Good of his Kingdom. Given at *Marly*, the 10th of *June*, 1712.

De Torcy.

Number XXIV.

Articles propoſed by the Queen of Great Britain *for a Ceſſation of Arms.*

ARTICLE I.

THE Queen will conſent to a Ceſſation of Arms for the ſpace of two Months, which may be prolong'd to three or four Months.

ART. II.

During the time of this Ceſſation, Endeavours will be uſed for concluding the Treaty of the General Peace: at leaſt, the Article relating to the Union of the two Monarchys ſhall be punctually executed; that is to ſay, King *Philip* ſhall renounce, during that ſpace of time, in due form, for himſelf and his Iſſue, to the Crown of *France*. This Renunciation ſhall likewiſe be accepted by the moſt Chriſtian King, and ratify'd in the moſt ſolemn manner, by the States of the Kingdom of *France*.

The Succeſſion to the ſaid Crown ſhall be declared and adjudged, after the Dauphin and his Iſſue, and ſucceſſively to the other Princes of the Houſe of *Bourbon*, to the abſolute Excluſion of King *Philip* and his Iſſue.

The Duke of *Berry* and the Duke of *Orleans* ſhall renounce for themſelves and their Children, to any Right to the Crown of *Spain*.

The States of this Kingdom ſhall accept and agree to this Renunciation in a proper manner.

All the Parties before-mention'd ſhall agree by authentick Acts to acknowledg as Succeſſor to the Crown of *Spain*, after K. *Philip* and his Iſſue, the Prince that ſhall be agreed on in the future Treaty of Peace.

ART. III.

The *French* Gariſon ſhall march out of the Town and Citadel of *Dunkirk*, and the Forts thereto belonging; and the Queen's Troops ſhall come into the ſame from the Day the Ceſſation of Arms begins: and this Place ſhall remain in the

His Majeſty's Anſwers.

ARTICLE I.

THE King agrees to the ſame.

ART. II.

During the time of this Ceſſation, Endeavours will be uſed for concluding the Treaty of the General Peace: at leaſt, the Article relating to the Reunion of the two Monarchys ſhall be punctually executed; that is to ſay, the King of *Spain* ſhall renounce, during that ſpace of time, in due form, for himſelf and his Iſſue, to the Crown of *France*. This Renunciation ſhall be accepted by the moſt Chriſtian King, publiſh'd, and regiſter'd in all the Parliaments of the Kingdom of *France*, in the moſt ſolemn manner. The Letters Patents granted by his moſt Chriſtian Majeſty to the King of *Spain* his Grandſon, in the Month of *December*, 1700. for preſerving his Rights to the Crown of *France*, notwithſtanding his Abſence out of the Kingdom, and then regiſter'd in the Parliament of *Paris*, ſhall be taken out of the Regiſters of the ſaid Parliament, and with the Conſent of that Prince ſhall be repealed and annulled.

The King agrees to the ſame.

The King agrees to the ſame.

The King agrees thereto.

The King agrees thereto.

ART. III.

The King agrees thereto.

the hands of the Queen, until the States-General have agreed to give to his moſt Chriſtian Majeſty ſuch an Equivalent for the Demolition of that Place, as he may be ſatisfy'd with. Provided, that in this caſe his moſt Chriſtian Majeſty ſhall be obliged to demoliſh all the Fortifications of that Place, to fill up the Port, and deſtroy the Sluices in ſuch manner as the Queen's Commiſſioners have deſir'd it.

ART. IV.

As the Queen, in her Demands, has no other View than to have ſome kind of a Pawn for ſecuring the Execution of the Article relating to the Reunion of the two Monarchys; her Majeſty does not pretend any way to concern her ſelf with diſturbing the Civil Government of the Town of *Dunkirk*: but on the contrary, ſhe orders me to give Aſſurances on her part, that ſhe will give the neceſſary Orders, that all things may remain and continue on the ſame foot they are actually in: That it ſhall be lawful for the King's Ships, and thoſe of private Perſons, to go out and come into Port as often as ſhall be neceſſary, without being hinder'd under any pretence whatſoever: And that all the King's Ships, as well as others belonging to private Perſons, and all their Effects ſhall be as much in ſafety as they are now. Given at *Whitehall* the 6th of *June*, O. S. 1712.

H. St. John.

ART. IV.

As the Queen, in her Demands, has no other View than to have ſome kind of Pawn for ſecuring the Execution of the Article relating to the Reunion of the two Monarchys; her Majeſty does not pretend any way to concern her ſelf with diſturbing the Civil Government of the Town of *Dunkirk*: but on the contrary ſhe orders me to promiſe on her part, that ſhe will give the neceſſary Orders that all things may remain and continue on the ſame foot they are actually in: That it ſhall be lawful for the King's Ships, and thoſe of private Perſons, to go out and come into Port as often as ſhall be neceſſary, without being hinder'd under any pretence whatſoever: And that all the King's Ships, as well as others belonging to private Perſons, and all their Effects, ſhall be as much in ſafety as they are now. And that his Majeſty's Officers who have the care of the Magazines belonging to the Sea or Land, ſhall ſtay in the ſaid Town of *Dunkirk*; where they ſhall continue to exerciſe their Callings during the ſtay of the *Engliſh* Troops. Given at *Marli*, the 22d of *June*, 1712.

De Torcy

Number XXV.

A. R.

Inſtructions for our Right Truſty, and Right entirely Beloved Couſin and Counſellor, James *Duke of* Ormonde, *Captain General and Commander in Chief of our Forces, acting in Conjunction with thoſe of our Allies in the* Low-Countries.

YOU are with all poſſible Diligence to repair to the *Hague*, and to acquaint the Penſionary, That, having appointed you to command our Army in the *Netherlands*, we have given you Orders to ſee him before you go to put your ſelf at the Head of the Troops. You are to expreſs to him the Reſolution we are in of preſſing the War with all poſſible Vigour, until the Enemy ſhall agree to ſuch Terms of Peace, as may be ſafe and honourable for us, and for our Allies.

You are farther to ſay to this Miniſter, That you are prepar'd to live in a perfect good Correſpondence with all the Generals of the Allies, and particularly with thoſe of the *States*; and that you hope, you ſhall find the ſame Inclination on their part, to which his (the Penſionary's) good Offices will extremely contribute. You are, after this Introduction, to deſire the Penſionary to inform you what Plan has been agreed upon for the Operations of the Campaign.

As ſoon as you arrive at the Frontier, you are to meet with the Prince *Eugene*, and ſuch others of the Generals as ſhall be in the Secret, and with them to concert the proper Meaſures for entring on Action.

You

You are to take the firſt, and every Opportunity, of reviewing all ſuch Regiments as are paid either in the whole, or in part, by Us, and to certify to Us the Numbers and Condition of the ſeveral Regiments of Horſe, Foot, and Dragoons.

You are likewiſe from time to time to correſpond with one of our Principal Secretaries of State, and to tranſmit conſtant Accounts of your Proceedings, and of all Occurrences which may happen.

Given at our Court at *St. James's*, the Seventh Day of *April* 1712. in the Eleventh Year of our Reign. *A. R.*

Number XXVI.

Letter from the States-*Deputies to the Duke of* Ormonde, *June* 4. 1712.

My Lord,

THE States-General, our Maſters, have order'd us to repreſent to you, That it is with the greateſt Surprize in the World they have receiv'd from us the News of the Declaration you have made, That you could not undertake any thing before you had receiv'd Letters from *England*, and the Refuſal you have made to concur to a Siege, or to a Battel. They have directed us to acquaint you, That it appears to them incomprehenſible and unanſwerable, that by this means Hold is not taken of the Advantage one has over the Enemy, both with reſpect to the Quality and Number of the Troops, and with regard to the Situation of the Armies; and that an apparent Opportunity is neglected of obtaining, with the Bleſſing of God, a great Advantage over the common Enemy: That this Occaſion being once miſs'd, will perhaps never offer it ſelf any more; whereby the common Cauſe will ſuffer a Loſs which can never be repair'd.

Their High and Mightineſſes cannot in the leaſt comprehend, That the Order ſent you can be ſo general, as to bind you, on ſo fair an Opportunity as this is, from annoying the Enemy; but that it appears to them, That ſuch Orders muſt be underſtood in a good Senſe, to temporize a little, in caſe the common Cauſe does not thereby ſuffer a conſiderable Diſadvantage; but not at all to ſit idle in a Situation wherein Inaction takes away all hopes from undertaking any thing hereafter, and whereby conſequently the Damage becomes irretrievable to the common Cauſe, ſince the Army remaining ſome time without doing any thing, the Forage is conſum'd, and the Operations afterwards become not only very difficult, but even impracticable: beſides, that time is left thereby to the Enemy to intrench themſelves, and to fortify their Country as much as they pleaſe.

It is for all theſe Reaſons, my Lord, that our Maſters have enjoin'd us to perſuade you not to do ſo great a Wrong and Prejudice to the common Cauſe of all the High Allies, as it would be, if you ſhould perſiſt not to concur any way to the Operations of the Campaign, as the Reaſon of War, and the preſent Situation of the Armies ſeem to require it. They have directed us to ſupport the aforeſaid Reaſons, particularly with this, That the Army which you command, does not only conſiſt of the National Troops of the Queen of *Great Britain*, but likewiſe for the moſt part of the Troops in the joint Pay of her Majeſty and the *States*, over which it is true, that the Command, as firſt and chief General, belongs to you; but as they are engag'd by both Powers together, to make War, and to act againſt the Enemy, they cannot be withdrawn from ſo doing by you alone, without communicating the ſame to their High and Mightineſſes, and without their Approbation, unleſs one will act contrary to the Treaties, and to the Ends for which they are engag'd. They have likewiſe order'd us to repreſent to you, my Lord, that not only the Treaty of the Grand Alliance amongſt the High Allies, but alſo particular Treaties made between the Queen of *Great Britain* and their High and Mightineſſes, oblige her Majeſty to carry on the War with Vigour; but that the Declaration you have made, That you cannot undertake any thing till further Order, at a time that, with your Communication and Approbation, the Army march'd in ſight of the Enemy, and wherein all Circumſtances ſeem'd favourable to undertake ſomething, with probable Hopes of Succeſs: Such a Declaration, we ſay, cannot be reconcil'd with the ſaid Treaties, nor with the repeated Aſſurances the Queen of *Great Britain* was pleas'd to give their High and Mightineſſes, as well by her Letters, as by the Mouth of the Earl of *Strafford*, her Ambaſſador Extraordinary; whereby ſhe declar'd, That her Troops ſhould act with as much Vigour as ſhould be requiſite for continuing the War.

That

This your ſelf, my Lord, being ſent to that end hither, gave their High and Mightineſſes the ſame Aſſurance of, during your ſtay at the *Hague*.

And that therefore they order us, to Summon you on the good Faith of Treaties and Alliances, and upon the aforeſaid Aſſurances, to puſh on the Operations of War, and to annoy the Enemy as much as Poſſible.

But in Caſe you perſiſt unhappily in the Deſign not to Order Her Majeſty's Troops to Act Offenſively; our Maſters Order us to ask you, my Lord, if you would make any difficulty to Employ the ſaid Troops to cover a Siege that might be undertaken: Provided alſo, you promiſe Poſitively to cauſe them to Act againſt the Enemy, if they ſhould come to Attempt any thing.

In Caſe my Lord, of an unexpected Refuſal, they have Charg'd us, to Proteſt in the moſt Effectual Manner, and in the ſtrongeſt Terms (as we do Solemnly by this) againſt the irretrievable Damage the State and their High Allies ſuffer thereby, and againſt the prejudice the Common Cauſe undergoes by ſuch Conduct.

And that they may know how to Proceed, we muſt ask you Poſitively, my Lord, wherein your Orders ſtrictly conſiſt not to Act, how far they reach, and how much one may depend upon the Troops of *Great-Britain*.

Finally, We require on their parts that no hindrance be given to the Troops in joint Pay, to Act according to the Reaſon of War, in purſuance of the Treaties and ſolemn Engagements.

This, my Lord, our Maſters have Order'd us, to repreſent to you by word of Mouth, and in Writing, that all the World, and even Poſterity may ſee, That their High and Mightineſſes, far from being guilty of ſo great Detriment to the Common Cauſe, as is the Inaction of this Day, have done all that lay in their Power to prevent the ill Conſequences thereof, and that it muſt belong to others to Anſwer for the unhappy Events that might ariſe therefrom. We deſire you, my Lord, that you will pleaſe to give an Anſwer in Writing thereupon, as Satisfactory and Speedy, as the Importance of the Affair and the Intereſt of all the High Allies require it: Written at the Camp at *Aveſne de Secq*.

June the 4*th*, 1712.

W. Hooft. *P. F. Vegilin.*
W. V. Haerſolte. *Van Claerbergen.*

Whitehall, June the 20*th*, 1712. Mr. *Secretary* St. *John* to Monſieur *de Torcy*.

SIR, N°. 27.

I Received the 14*th* of this Month, *O. S.* by *la Vigne* your Diſpatches of 22*d* of the ſame Month, *N. S.* and I only waited for the Duke of *Ormond*'s Letters to ſend you my Anſwer. Theſe Letters are Arriv'd this Morning, and at the ſame time your Courier put into my Hands that which you did me the Honour to write to me the 27*th* of this Month.

The Particulars which the Duke of *Ormond* gives of what has paſs'd, are intirely Conformable to what you obſerv'd to me; and I have not fail'd reading all the Diſpatches to the Queen. Her Majeſty, Sir, commands me to tell you, that 'tis with the moſt ſenſible Diſpleaſure, ſhe ſees that the Enemies to Peace find ſtill the means to retard its Concluſion, in expoſing the Negociation (which muſt lead us to it) to new Difficulties and new Dangers. But as Her Majeſty has taken a firm and immoveable Reſolution, not to give way in any manner to the Obſtacles which ſhall be raiſed, and on the contrary, to continue to labour jointly with the King to Re-eſtabliſh the general Tranquillity, ſhe doubts not but we ſhall be in a Condition to make abortive this laſt Effort of thoſe, who would buy their Advantages, or ſatisfy their particular Reſentments, at the coſt of prolonging the Miſeries of the War. I believe when you ſhall have read over my Letter, you will be convinc'd of this Truth.

I have this moment been ſpeaking by the Queen's Order to all the Miniſters who are now here, whoſe Princes Troops are in the ſole Pay of her Majeſty, or in her joint Pay with the States. I have declared to them in the Name of the Queen, that ſhe will look upon the Conduct of their Maſters Generals, at this juncture, as a Declaration of thoſe Princes either for or againſt her. Since nothing need be done to ſecure a Peace, but to follow the Plan which the Queen has made, or to follow that which the Emperor and the States General have formed to break the Negociations. That her Majeſty could not perſwade her ſelf, that if they would once more Reflect on it, their

their Generals would ſtick a Moment to obey the Orders of the Duke of *Ormond*. But I declared to them that if they did, her Majeſty would furniſh no more Pay to the Troops.

I have given them to underſtand that the Courier which I diſpatch this Night to the Army, will carry the Letters which they ſhall think Proper to write to their General Officers, upon what I juſt then told them, and that 'twas time they came to a Reſolution, ſince by the ſame Courier the Duke of *Ormond* would receive the Queen's Orders not only to make the ſame Declarations; but in Caſe they ſhould Refuſe to obey him, to put theſe Declarations in Execution.

The Queen, Sir, perſwades her ſelf that this proceeding will hardly fail of having its Effect. But ſhe commands me at the ſame time to Communicate to you the Reſolution ſhe has taken in Caſe ſome of the Foreign Troops perſiſt to remain with Prince *Eugene*'s Army. In this Caſe the Duke of *Ormond* will retire with the *Engliſh* Forces, and all thoſe that will march off with him, which will not be, I ſuppoſe, the leaſt Part, and will declare that the Queen will not Act any more againſt *France*, nor Pay thoſe that ſhall. And her Majeſty who till now has kept meaſures with her Allies, driven by them to ſuch Extremity as this, will think herſelf juſtified before God and Men, in continuing the Negociations either at *Utrecht* or elſewhere, without troubling herſelf if they concur with it or not. Thus, Sir, you may Aſſure your ſelf, and I have Order to promiſe you in the Name of her Majeſty, that if the moſt Chriſtian King puts the Town, Cittadel, and Forts of *Dunkirk* into the Queen's Hands, notwithſtanding all the Foreign Troops or part of them Refuſe to obey the Duke of *Ormond*'s Orders, and to retire with him, her Majeſty will ſtick no longer to Conclude her own particular Peace, but leave to the other Powers a ſett time to ſubmit to the Conditions of the Plan which ſhall be agreed on by the Queen and his moſt Chriſtian Majeſty.

See here, Sir, the Peace is in the Hands of the King; if the Duke of *Ormond*'s whole Army conſents to the Suſpenſion of Arms, our firſt Project, on which we are agreed, has its Effect; if they do not Conſent, the *Engliſh* Troops will draw themſelves off from thoſe of the Allies, and the Foreign Troops may addreſs themſelves to the States General for their Subſiſtence, who very far from being able to ſupply New Charges, are not capable to bear thoſe they have already upon their Hands. In a word, *Great-Britain* retires from the Stage of the War, leaving there none but Powers in a weak Condition to make Head againſt *France*, and the Peace between theſe two Kingdoms may be concluded in very few Weeks. Theſe are, Sir, the Propoſals which the Queen has commanded me to make you: And ſhe believes that his moſt Chriſtian Majeſty will have his end, as much in the laſt as in the firſt Plan. If the King accepts theſe Propoſitions, the Queen thinks it Convenient for the Intereſt of both Nations, to labour inceſſantly for a general Suſpenſion as well by Sea as Land, between *Great-Britain* and *France*, to follow that which ſhall be eſtabliſh'd in the Low-Countries.

I ſhall wait with Impatience the return of this Courier, for, Sir, I muſt agree with you that the Moments are precious in a Conjuncture like this. You'll diſpatch at the ſame time, if you pleaſe, an Expreſs to the Duke of *Ormond* that he may know what to Depend on, and how to behave himſelf. If you Signify to him that the King has given Orders to the Officer that Commands in *Dunkirk* to ſuffer the Troops of the Queen of *Great-Britain* to enter the Place, the Duke of *Ormond* will immediately do what I have been telling you. And in this Caſe her Majeſty will ſend from hence ſome Regiments to take Poſſeſſion of the Place, by which means we ſhall avoid many Obſtacles that might be formed, if this ſhould be done by a Detachment from the Duke of *Ormond*'s Army, as we had deſign'd it ſhould.

Since I have wrote this Letter, her Majeſty has taken a Reſolution to ſend the Earl of *Strafford* directly to the Army, and he will ſet out to morrow in the Evening, or *Sunday* Morning at fartheſt.

I am &c.

H. St. John.

Marly, July the 5th, 1712. Monſieur *De Torcy* to Mr. St. *John.*

No. 28.

I Receive by *la Vigne* the Letter you honoured me with of the 20*th June*, *O. S.* and as you impatiently expect his Return, knowing how precious every hour is in the preſent Conjuncture, the King Commands me not to looſe a Moment in ſending him back to you. You will not be ſorry to ſee him return'd, ſince he carries for you his Majeſty's General Approbation of the Queen's Demands you explained to me by your laſt Letter.

You take Notice, Sir, of the Orders her Majeſty has given to the Duke of *Ormond*, the Declarations he is to make, and the part he ſhall take to retire with the *Engliſh* Troops and all thoſe that will march with him, if ſo be the King puts into her Majeſty's Hands the City, Cittadel and Forts of *Dunkirk*, when even all the Foreign Troops actually in her Pay (either ſeparately, or jointly with thoſe of the States General) or a part of theſe Troops ſeparate from the *Engliſh* to continue under the Command of Prince *Eugene*. My laſt Letter, Sir, contained the juſt Reaſons the King had to Expect that all Foreign Troops in *Engliſh* Pay ſhould follow the Orders and Motions of the Duke of *Ormond*, as a neceſſary Condition for the performance of the Promiſe his Majeſty made the Queen of committing *Dunkirk* to her Cuſtody; but as it appears by your Letter that her Britannick Majeſty in caſe of a Refuſal on the part of her Allies, will no longer obſerve Meaſures with them, that ſhe thinks herſelf juſtified before God and Man, not to ſcruple any longer the Concluſion of a particular Peace, leaving to the other Powers intereſted in the War, a Term to ſubmit to the Conditions of the Plan ſhe ſhall agree upon with the King, that this Peace may receive its Concluſion in a very few Weeks, and that *Great-Britain* enjoying a glorious Peace, will leave the whole Weight of the War to ſuch Powers whom Animoſity ſhall engage to Act againſt *France*, but who at the ſame time will be in too poor Condition to make Head againſt her. All theſe Reaſons ſo fully explained in your Letter, being agreeable to the Sentiments of his Majeſty, have determined him to give his Orders for permitting the Queen's Troops to enter into *Dunkirk*. The Meſſenger charged with theſe Orders is going to carry them to Marſhal *Villars* as at the ſame time I return *la Vigne* to you; and you may be Certain the Duke of *Ormond* will receive Advice of them to morrow the 6th of this Inſtant. I hope the Earl of *Strafford* will be with him at that time, and that the Concluſion of a good Peace, at leaſt between *France* and *Great-Britain*, will immediately follow his Arrival at *Utrecht*. I beg leave, Sir, to make my Compliments to you on this Occaſion, and do it with the greater Aſſurance in finding by your Letter that all Difficulties are ſurmounted.

The King, Sir, very well approves of your Propoſition in agreeing immediately upon a general Ceſſation of all Hoſtilities between the two Nations, as well by Sea as Land. Thoſe People who have ſuffer'd ſo many Years the Burthen and Misfortunes of the War, cannot too ſoon taſte the Sweetneſs of the Peace. 'Tis my Opinion this Agreement ought to be ſigned at *Utrecht*, and I Suppoſe you will ſend her Majeſty's Orders to her Plenipotentiaries, unleſs you think ſome other Method may ſooner terminate this Affair.

'Tis with greater Satisfaction than ever, that I aſſure you no one can be with greater Truth, than I am, *&c.*

De Torcy.

The Treaty for a Suſpenſion of Arms between *Great-Britain* and *France.*

No. 29.

ANNE by the Grace of God, Queen of *Great-Britain*, *France*, and *Ireland*, Defender of the Faith, *&c.* To all who ſhall ſee theſe Preſents, Greeting. Whereas our Right Truſty, and Well-beloved Couſin, *Henry* Viſcount *Bolingbroke*, Lord St. *John*, Baron of *Lidiard Tregoze*, of our Privy Council, and one of our Principal Secretary's of State, by Virtue of the full Power which we have granted him; and *John Baptiſt Colbert*, Knt. Marquis of

Torcy

Torcy Croiſſy, Sable, *Bois-Dauphin* and other places, Councellour of our moſt Dear Brother the moſt Chriſtian King, Miniſter and Secretary of State, Commander, Chancellor, and Keeper of the Seals of the Knights of his Order, Poſt-Maſter General of *France*, by Virtue alſo of the full Power given him, have ſigned a Treaty of Suſpenſion of Arms, the 8th of this inſtant *Auguſt*, *O. S.* 1712, in the following Words.

As there is Reaſon to expect a happy Succeſs of the Conferences held at *Utrecht*, by the Care of their Britannick and moſt Chriſtian Majeſties, for the re-eſtabliſhing a general Peace, and as they thought it neceſſary to prevent all the Events of War which may diſturb the preſent State of the Negociations, their ſaid Majeſty's earneſtly deſiring the Happineſs of Chriſtendom, have agreed upon a Suſpenſion of Arms, as the moſt certain means to Obtain that General Good which they Propoſe to themſelves; and altho' her Britannick Majeſty has not hitherto been able to perſwade her Allies to enter into the ſame Sentiments, the Refuſal they make to follow them not being a ſufficient Reaſon for hindering his moſt Chriſtian Majeſty, to ſhew by effectual proofs the deſire he has to Re-eſtabliſh as ſoon as poſſible, a perfect Friendſhip and ſincere Correſpondence between the Queen of *Great-Britain* and himſelf, and the Kingdoms, Dominions and Subjects of their Majeſties, his ſaid moſt Chriſtian Majeſty after having truſted the *Engliſh* Troops with the keeping of the Town, Cittadel and Forts of *Dunkirk* as a Pledge of his ſincerity, Conſents and Promiſes, as the Queen of *Great-Britain* Promiſes alſo on her part,

1. That there ſhall be a general Ceſſation of all Undertakings and military Actions, and generally of all Hoſtilities between the Armies, Troops, Fleets, Squadrons, and Ships of their Britannick and moſt Chriſtian Majeſties, during the time of four Months, to Commence from the 22d of this inſtant *Auguſt*, to the 22d of *December* next.

2. The ſame Suſpenſion ſhall be eſtabliſhed between the Garriſons and Troops, which their Majeſties have for the Defence and keeping of their Towns in all the places where their Arms are Acting or may Act, whether it be by Land or by Sea, or other Waters, in ſuch a manner as if it ſhould happen, that during the time of the Suſpenſion, the ſame ſhould be violated by any of the Parties, by the taking of one or ſeveral places either by attack, Surprize or private Intelligence in any part of the World whatſoever, that Priſoners ſhould be made, or any other Acts of Hoſtility committed by ſome unexpected Accident, ſuch as thoſe which cannot be prevented, contrary to the preſent Ceſſation of Arms: This Contravention ſhall be faithfully made upon either ſide without Delay or Difficulty, reſtoring without the leaſt Diſſimulation what ſhall have been taken, and ſetting at Liberty the Priſoners without asking any thing for their Ranſom or for their Expence.

3. To prevent likewiſe all cauſes of Complaints and Diſputes which might ariſe upon account of the Ships, Goods or other Effects, which ſhall be taken at Sea, during the time of the Suſpenſion, it is reſpectively agreed, that the ſaid Ships, Goods and Effects which ſhall be taken in the Channel and in the Northern Seas after the ſpace of twelve, Days to reckon from the ſigning of the ſaid Suſpenſion, ſhall reciprocally be reſtored on both Sides. That the time ſhall be of ſix Weeks for the Prizes taken from the Channel, the Britiſh and Northern Seas to the Cape St. *Vincent*. And likewiſe of ſix Weeks from and beyond that Cape to the Line, either in the Ocean or in the Mediterranean.

Finally of ſix Months beyond the Line, and in all the other parts of the World, without any Exception or other more particular Diſtinction of time or place.

4. As the ſame Supenſion ſhall be obſerved between the Kingdoms of *Great-Britain* and *Spain*, her Britannick Majeſty Promiſes, that none of her Men of War, or Merchants Ships, Sloops or other Veſſels belonging to her Britannick Majeſty or to her Subjects, ſhall be hereafter employed to Tranſport or Convoy into *Portugal*, *Catalonia*, or any of the places where they make War at preſent, any Troops, Horſes, Arms, Cloaths, and in general any Proviſions and Ammunition.

5. However her Britannick Majeſty ſhall be at liberty to cauſe Troops, Ammunitions, Proviſions and other Neceſſaries to be tranſported to the places of *Gibraltar* and Port *Mahon* of which ſhe is actually in Poſſeſſion, and which ſhe is to keep by the Treaty of Peace to be made; as alſo to withdraw from *Spain* the *Engliſh* Troops, and generally all the Effects belonging to her in that Kingdom, either to Tranſport them to the Iſland of *Minorca*, or to bring them into *Great-Britain*, without the ſaid Tranſports being thought contrary to the Suſpenſion.

6. Be

6. The Queen of *Great Britain* may alſo without violating the Suſpenſion, lend Her Ships to tranſport into *Portugal*, the Troops of that Nation which are at preſent in *Catalonia*, and to tranſport to *Italy* the *German* Troops, which are likewiſe in the ſame Province.

7. Immediately after that this preſent Treaty of Suſpenſion ſhall have been declared in *Spain*, the King engages himſelf to have the Blockade of *Gibraltar* raiſed, and that the *Engliſh* Garriſon as well as the Merchants who ſhall be in that place, may freely Live, Act, and Trade with the *Spaniards*.

The Ratifications of the preſent Treaty ſhall be exchanged on both ſides within the time of a Fortnight or ſooner, if poſſible.

In Teſtimony whereof, and by Virtue of the Orders and Powers which we underwritten have received from the Queen of *Great Britain* and His moſt Chriſtian Majeſty, our Miſtreſs and Maſter, have Sign'd theſe Preſents, and have cauſed the Seals of our Arms to be affixed thereto.

Given at Paris *the 19th of* Auguſt, 1712.

LS. *Bolingbroke.* LS. *Colbert de Torcy.*

We have ſeen and conſidered the Treaty abovewritten, have approved, ratified, and confirmed, the ſame in all and every one of its Articles; as we do by theſe Preſents approve, ratify, and confirm it, promiſing and engaging our Royal Word, that we will faithfully and inviolably perform and obſerve all things contained therein, and that we will never directly or indirectly violate the ſame; for the greater Teſtimony and Validity whereof we have cauſed our great Seal of *Great Britain* to be affixed to theſe Preſents; which we have Sign'd with our Royal Hand.

Given in Our Caſtle at Windſor, *the 18th Day of* Auguſt, 1712. *In the Eleventh Year of Our Reign.*

ANNE R.

Lords Plenipotentiaries to Lord *Bolingbroke, September 2d*, 1712.

Nº. 30.

IN our laſt of the 30th paſt, We gave your Lordſhip an Account of the Diſpoſitio[n] things were in here to renew the General Conferences, and that the next Day we were to know of the *French* when we were to begin; we have ſince ſpoke with them twice, the laſt time this Morning, but without coming to any Concluſion, they thinking it neceſſary to return ſuch an anſwer to our Propoſal, as appears to us to be contrary to the Honour of Her Majeſty's Speech: The Caſe is this,

In Her Majeſty's Speech it is expreſſed, That the *Dutch* are to have the entire Barrier as demanded in 1709, except two or three Places at moſt.

The *French* Miniſters inſiſt, that they muſt have *Liſle*, as an Equivalent for *Dunkirk*, and that the ſame is not to be underſtood as one of the three Places mentioned in the Speech, and conſequently that they muſt in all have four of the Places mentioned in the Demands of 1709.

This to us appears to be altogether inconſiſtent with what Her Majeſty has declared, and we accordingly think it contrary to our Duty to bring on a Conference in which ſuch an Explication is to be made.

The *French* Miniſters on the other Hand have ſhew'd us their Orders, which poſitively require them to inſiſt upon the Reſtitution of *Tournay* as well as *Liſle*, and that they by no means conſent to the Ceſſion of *Maubeuge* or *Condé*.

We have in vain preſſed them to ſpeak at firſt in Terms, as general as our Propoſal is conceived in; they think it neceſſary to be particular and expreſs in that Point above all others, becauſe they ſhall otherwiſe have ty'd themſelves up, and given the *Dutch* an Advantage; the Reſult of a very long Debate was, that we reſolved not to proceed to a Conference 'till this Point be determined, and as the *French* Miniſters profeſs their Orders are ſo plain, that they neither need nor can admit any Explication: We alſo think the matter as plain on our ſide, nor can conceive from whence the Expedient ſhall come.

We humbly hope our Zeal for Her Majeſty's Honour will be graciouſly approved, and that we ſhall be directed what further we are to do in this matter, which we apprehend may be of a deciſive conſequence; for we find thoſe among the *Dutch* who appear to be more cordially diſpoſed to ſuch a Peace, as may Reeſtabliſh a good Harmony between Her Majeſty and the States, which they take to be abſolutely neceſſary for our mutual Preſervation; we find them fully reſolved either to retain *Tournay* and have *Condé* yielded to them, (though we think, if Neceſſity require, they may be perſwaded to let fall the latter,) or to take one of theſe two Courſes; namely, either to come into any Terms that *France* pleaſes, or continue the War at all Hazards; the former may in our Opinion, be more probable than the latter, the points of Commerce being ſo very eaſy to be accommodated, and other Equivalents not ſo very difficult. And if they ſhould by ſuch a motive of Deſpair get the ſtart of us, it may happen to leſſen the conſideration *France* now ſhews for Her Majeſty's Friendſhip.

We had wrote thus far when the *French* Plenipotentiaries deſired to come to us, and being come, acquainted us, that they had juſt receiv'd Orders by a Courier about the Affront done to Monſieur *Meſnager* by Count *Rechteren*, which directed them to deſire us to let the *States General* know, that His moſt Chriſtian Majeſty expects the States ſhall in a publick manner diſavow the ſaid Count, and then remove him from the Congreſs; they added, that this Satisfaction is to precede any further Negotiation.

Lord *Bolingbroke* to the Lords Plenipotentiaries, *September* 10*th*, 1712.

N°. 31.

SINCE I wrote what is above, I have been obliged to defer diſpatching my Letter, which has given me an Opportunity of ſeeing my Lord *Lexington*, who is reſolved to be ſetting out for *Spain* by the end of this Week; ſo that I hope, his Lordſhip will get to *Madrid* in good time to be there at the Aſſembling of the Cortes. Your Lordſhips will, I preſume, think fit to correſpond with him upon all Matters relating to your joint Negociation, and I believe the beſt way will be to have your Correſpondence paſs through the Hands of Mr. *Prior*. I have given his Lordſhip a Copy of the Cypher which was made for the Uſe of the Foreign Miniſters in any Province to write to another. Mr. *Prior* has likewiſe a Copy of the ſame, ſo that your Lordſhips may by that means more conveniently carry on the Correſpondence. I am now to ſpeak to your Lordſhips concerning the diſpute mention'd to be ariſen in yours of the Second of *September*, between your Lordſhips and the Miniſters of *France*; it is certain, that at the time when the Queen communicated from the Throne a General Sketch of the Project of Peace, the *French* would have been glad, having *Liſle* as an equivalent for *Dunkirk*, to have ſav'd *Conde* and *Maubenge*, and to have departed from *Tournay*; this your Lordſhips have Reaſon to be ſenſible of as well as I; and you cannot but obſerve, that in the Plan brought hither by the Abbot *Gaultier*, the King of *France* begs

for

for *Tournay*, rather than inſiſts upon it; but amongſt many other ill conſequences, which the unaccountable Obſtinacy of the *Dutch* has produced, and will I fear continue to produce, this is one, that the *French* are encouraged to refuſe what they only endeavoured to ſave. The Plan above-mentioned was underſtood to be nothing more than the *Ultimatum* of the Offers of *France*, and almoſt every Article in it might have been improved and built upon, if the Allies had then unanimouſly reſumed the Conferences; but *France* has now gathered Strength by our Diviſions, and is grown Sanguine enough to Re-eſtabliſh the ſame Plan as the *Ultimatum* of Her Conceſſions. I ſay thus much to your Lordſhips, upon a Subject which is trite enough, only to introduce this Propoſition, that the *Dutch* have no Body to blame but themſelves, as I believe your Lordſhips once very juſtly told them, if their Terms of Peace ſhould fall ſhort even of thoſe contained in Her Majeſty's Speech. Her Majeſty, my Lords, is ſenſible of the concern which you expreſs for Her Honour, and will not, you may be ſure, ſuffer Her ſelf to be a Party to any thing which may appear contradictory to what ſhe has once advanced; but there is more in the preſent Caſe, and although perhaps the yielding of *Tournay* might be reconciled to the Terms of Her Speech, yet ſhould the Queen conſent to this Expoſition of it, ſuch conſent would be almoſt a formal Acquieſcence to the Reſtoration of this place to *France*, and this, my Lords, is what Her Majeſty will avoid; ſhe will by no means ſide with *France*, to tye down Her Allies in any Inſtance, and it is with the utmoſt Regret that ſhe ſees them perſevere in a Conduct, which muſt neceſſarily give the Enemy an Advantage over them; on the other hand, the Queen thinks that whilſt they continue to refuſe to come into Her Meaſures, ſhe is under no Obligation of entering very far into Contention for them. I hope, the Solution of this Difficulty will come from *France*, and that when they have ſo many other Quarrels to decide, that Court will go back from a Meaſure, which muſt involve them in a diſpute with the Queen. I had almoſt forgot to ſay, that I have Reaſon to think, that if the *Dutch* were come to ſome Conſiſtency amongſt themſelves, and it was certain what would bring them into the Peace, the *French* would be leſs Stiff on their Score.

Lord *Bolingbroke* to Mr. *Prior*, *September* 10th, 1712. O. S.

N°. 32.

I Was equally ſurprized and vexed to find, that by the uncouth way of explaining the Queen's Senſe, you had been led to imagine, that it was intended my Lord *Lexington* ſhould make any Difficulty of Seeing and Complimenting the King of *Spain* as ſuch.

We ſpent above three Hours in penning Minutes yeſterday upon this Head, which was long ago adjuſted. I ſuppoſe the Inſtructions will be at laſt clear, but my Lord *Lexington* having been preſent at the Debate, his underſtanding of the matter will make amends for any dark ambiguous Article which may be in them.

Dartmouth is to communicate the Queen's Orders herein to you, that ſo you may be able to ſatisfy the *French* Miniſters, and they to prepare the *Spaniſh* Miniſters; however, I will venture to tell you in a few Words what I underſtand is to be the meaſure of Lord *Lexington*'s Conduct. As ſoon as he arrives at *Madrid*, he will notify his Arrival to the Secretary of State, he will when he ſees this Miniſter let him know, that the Queen has ſent him thither to Compliment the King in her Name, to be a Witneſs of the ſeveral Renunciations, and other Acts requiſite to compleat the Execution of the Article agreed upon as neceſſary to prevent the Union of the two Monarchies; that after this, he is to proceed to ſettle ſuch matters of Commerce, and other Affairs as are for the mutual Intereſt of both Nations, and ſo take the Character of Ambaſſadour upon him; my Lord will at the ſame time produce his Credentials, and give the Secretary a Copy of them

if

if he deſires it. In this Conference he will further take Notice of the ſeveral Ceſſions made by the King of *France*, in behalf of his Grandſon to the Queen, and will ſpeak of them as Points which he looks upon to be concluded. He will likewiſe give a Memorial of them in Writing, ſign'd by himſelf, to the Secretary, and expect from him an Aſſent in the King's Name in Writing alſo, and Sign'd by the Secretary.

This ſeems natural, civil, and unexceptionable; but any other Scheme is abſurd and inconſiſtent with all the reſt of our Proceedings.

For God ſake, Dear *Matt.* hide the Nakedneſs of thy Country, and give the beſt turn thy fertile Brain will furniſh thee with to the Blunders of thy Country Men, who are not much better Politicians than the *French* are Poets.

I have writ in great haſte a prodigious long Letter to Monſieur *de Torcy*, which, I believe, he will ſhew you; but for fear he ſhould not, I encloſe in this an Extract of part of it, which relates to a matter that has given Lord Treaſurer and your humble Servant no ſmall Trouble in Cabinet. The Copy of the Plenipotentiaries diſpatch of the 2d of *September*, which I likewiſe ſend you, will ſhew you how a diſpute now on Foot at *Utrecht* begun; you will obſerve that their Lordſhips are very warm in it, and I can aſſure you we have thoſe who are not a jot cooler.

The Solution of this Difficulty muſt come from you, it is matter of Management and Appearance, more than of Subſtance; and the Court of *France* muſt be leſs Politick than I think them at any time, and more unreaſonable than I think them at this time, not to come into a Temperament upon a matter unneceſſarily ſtarted. You muſt begin by making Monſieur *de Torcy* not only to underſtand, but own he underſtands the Propoſition which I am ſure he remembers, I more than once repeated to him when I was in *France*, upon various Occaſions, and which I have again ſtated as clearly as I am able. The Queen can never do any thing, which ſhall look like a direct Reſtraint on Her Allies from demanding what they judge neceſſary; but as long as they act the part, which they now do, ſhe can very juſtly be Paſſive and Neuter as to their Intereſts, and if Her Peace be made before theirs, which ſhe will not delay for them, ſhe can with the ſame Juſtice leave them to make their own Bargain. This is Advantage enough for *France*, and ſuch an one, fairly ſpeaking, as a Year ago they would have given more than *Tournay* to have been ſure of; they muſt not therefore preſs us to go further than this, nor do any thing which may ſeem contradictory to what the Queen delivered from the Throne. That Speech they have always owned as the Plan they ſubmitted to, and it varies but little from that brought hither by *Gaultier*.

In a word, the uſe which the *French* will make of the unaccountable Obſtinacy of the *Dutch* and other Allies, may in ſeveral Reſpects, and particularly for ought I know in this Inſtance of *Tournay*, give them an opportunity of ſaving and gaining more than they could have hoped for, and the Queen may in the preſent Circumſtances contribute paſſively to this End, but actively ſhe never can in any Circumſtances.

I think in my own Opinion, and I believe ſpeak the Queen's upon this Occaſion, that it were better the *French* ſhould in the Courſe of the Treaty declare, that whatever they intended to have given the *Dutch*, when the Queen ſpoke from the Throne, their Conduct has been ſuch, and the Situation of Affairs ſo alter'd, that the King is reſolved to have *Tournay* reſtored to him; I ſay, I believe this were better, than to expect that we ſhould conſent to an Expoſition of the Queen's Words, by which Her Majeſty would yield the Town up.

Let the Conferences begin as ſoon as they can, I dare ſay, buſineſs will not be very ſpeedily diſpatched in them; in the mean time we ſhall go on to ripen every thing for a Concluſion between Us and *Savoy*, *France*, and *Spain*, and this is the true point of View which the *French* ought to have before their Eyes.

You will be very ſhortly particularly and fully inſtructed to ſettle the Article of *North America*, and thoſe points of Commerce ſtill undetermined; that done, the Miniſters may ſign at *Utrecht*, as ſoon as they can hear from Lord *Lexington*.

My Lord *Dartmouth* writes to you concerning a Clamour which our Merchants have raiſed, as if under pretence of not carrying to *Lisbon* or *Barcelona des Proviſions de Guerre ou de Bouche*, they ſhall be debarred from their uſual Traffick of Corn and Fiſh, which at thoſe Places there are great Demands for in time of Peace as well as in War, and without any conſideration of the Armies; the Difficulty as to *Lisbon* ſeems to be removed by the *Portugueze*,

Portugueſe ſubmitting to come into the Suſpenſion of Arms, and he propoſes to you an Expedient as to *Barcelona*; but in truth that War muſt be ended of courſe now, ſince the Queen ſupports it no longer, and the *Dutch* are recalling their Fleet from the Streights. The Duke of *Argyle* is going immediately now away, and the moment he comes to *Minorca* he draws to him every thing belonging to the Queen out of *Catalonia*; the Imperial Troops muſt in my opinion that moment ſubmit, and compound for Tranſportation, and when the War is at an End, I think there can be no pretence of quarrelling with us for carrying our Goods to the People of the Countrey.

It is now three a Clock in the Morning, I have been hard at Work all day, and am not yet enough recovered to bear much Fatigue; excuſe therefore the confuſedneſs of this Scroll, which is only from *Harry* to *Matt.* and not from the Secretary to the Miniſter.

Your Credentials of Miniſter Plenipotentiary will be ſent you, together with your full powers by the next Boat, and before Duke *Hamilton* goes I will move to have you removed to *Utretcht*, which there will be a natural handle for, as ſoon as you ſhall ſettle the points of Commerce, and in doing that, have given the laſt ſtroke to the finiſhing the Treaty with *France*.

Make my Compliments to Madam *Teriol*, and let her know that I have, I hope, put her Affair into a way of being finiſhed to her ſatisfaction. I have ſpoke very earneſtly to *Maffei*, and have uſed the proper Arguments to Him.

Adieu, My pen is ready to drop out of my Hand, believe that no Man loves you better, or is more faithfully Yours &c.

BOLINGBROKE.

P. S. I had almoſt forgot to tell you that the Queen is pleaſed to diſcharge the Mareſchal *Tallard's* Parole, which you may aſſure him, with my Compliments of and give any ſignification neceſſary in form.

N°. 33.

Lord BOLINGBROKE *to Monſieur* de TORCY, *September the* 10th *O. S.*

YOUR Honour and Mine, which are equally dear to me, will be equally preſerv'd as long as we keep to that which I have had permiſſion to tell you, concerning the Queens Intentions upon the General Plan of the Peace. You will remember Sir, I repreſented to you, that the Conduct of Her Majeſty in reſpect to the Intereſt of Her Allies, was in ſome meaſure determined by their behaviour that the violent meaſures which they have taken to Thwart the Negotiation had the effect of putting the Queen in a condition of making the Peace without waiting for their concurrence, that in this caſe, Her Majeſty wou'd declare to them, that She had Sign'd the Treaty with *France* and *Spain*; and that She would propoſe to them the Plan brought by the Abbot *Gaultier*, as that upon which they muſt make the Peace, and that for the future She would have them know, She could act no otherwiſe than by Her good Offices, as a common Friend to all Parties. You will alſo remember Sir, that I had the Honour to tell you, that in caſe the *Dutch* particularly, or the other *Allies* ſhould take care of the part of entring before the concluſion of the Queens Peace, into concert with Her Majeſty, we muſt then keep the more meaſures with them, the Compaſſion of the People in *England* would be moved, and the Miniſters of the Queen be obliged to make Steps, which in the other caſe they would abſolutely refuſe to do.

You ſee Sir, what I advanc'd in *France* by order of Her Majeſty, and what I this day repeat by the ſame Order, and what you will find punctually performed.

The Plenipotentiaries of the King, ſeem to require of Us ſomething more, when they inſiſt that the Queens Miniſters ſhould propoſe the holding a Conference which ſhould be open'd by a Propoſition, which appears in ſome meaſure contrary to what the Queen has ſaid in Her Speech, concerning the Barrier for the States, in the diſpute that is ariſen between Your Plenipotentiaries and Ours. The Queſtion is not-

not to know whether *Tournay* ſhall be reſtored to the King or not, for in order to obtain this Place, it is not neceſſary that you ſhould begin in making this Specifick Declaration.

But the queſtion is to know whether the Queen ſhould declare formally and from this time that *Tournay* ſhall be reſtored to *France*, for that would be declaring a Conſent to the Explanation which your Miniſters would give to this Article of the Speech. Not to ſwell a Letter too much, which ſeems already to become ſomewhat tedious, I muſt refer my ſelf to what Mr. *Prior* will have the Honour to tell you upon this Head, and I will content my ſelf with ſaying, That as it is not difficult to find out an Expedient, I hope we ſhall avoid every thing that might occaſion a Diſpute between the Miniſters of *Great Britain* and *France*.

The Earl of *Dartmouth* ſends twelve Paſſports for the Ships that are ready to ſail for the *Weſt Indies* which the King of *Spain* deſires, and Mr. *Prior* will immediately put them into your Hands.

N° 34.

Offers of France *to* England.	*Demands for* England.	*The King's Anſwers.*
I. The King promiſes to conſent without Difficulty to all what is contain'd in the 1ſt, 2d, 3d, 4th and 5th Articles of the Specifick Demands of the Queen of *Great Britain*.		
II. The King will cauſe all the Fortifications of *Dunkirk* to be demoliſh'd, as well thoſe of the Town, as of the Citadel, the Riſebanks, and other Ports towards the Sea in the ſpace of two Months, and thoſe towards the Land in three Months longer, to be reckoned from the day of the Exchange of the Ratifications, the whole at his own Charge, and with Promiſes not to repair the Whole or any Part.		
III. The King ſhall yield the Iſland of St. *Chriſtophers* to *Great Britain*, as likewiſe *Newfoundland*, on Condition that the Town of *Placentia* ſhall be demoliſh'd, that the right of Fiſhing and drying Cod freely and without Moleſtation upon the ſaid Iſland of *Newfoundland* ſhall remain to the *French* in the ſame Places where they uſed to do it. The little Iſlands near it, and thoſe neareſt to *Newfoundland*, ſhall	*England* demands, That that this Town of *Placentia* ſhall be yielded to her in the Condition it is in.	His Majeſty offers to leave the Fortifications of *Placentia* as they are, when he yields that Place to *England*, to agree to the Demand made of the Guns of *Hudſon's Bay*: Moreover, to yield the Iſlands of St. *Martin* and St. *Bartholomew* to give up even the right of Fiſhing and drying Cod upon the Coaſt of *Newfoundland*, if the *Engliſh* will give him back *Acadia*, in conſideration of theſe new Ceſſions which are

ſhall alſo be yielded to *England*, well underſtood that the Iſland of *Cape Breton* and others of the Gulph and Mouth of the River of St. *Laurence*, of which *France* is actually in Poſſeſſion, ſhall remain to the King.

IV.

The King will yield the Province of *Acadia* with the Town of *Port Royal*, and its Dependencies to *Great Britain*, as alſo the ſtreights of *Hudſon's Bay*.

V.

The *French* who ſhall leave the Countries which are yielded above to *Great Britain* in the North Part of *America*, ſhall have leave to withdraw their Effects from thence: Likewiſe the King ſhall have leave to withdraw from thence the Guns and all the ſtores of War.

VI.

After the Concluſion of the *Peace* there ſhall be Commiſſioners named on both ſides, as well for regulating in the ſpace of a Year the limits betwixt *Canada* or *New France* on one ſide, and *Acadia* and the Lands of *Hudſon's Bay* on the other, as likewiſe to agree amicably of all the Reparations which are juſt and reaſonable, claimed by the one ſide or the other for the Wrongs received contrary to the right of Peace and War.

VII.

The Limits being once fixed, it ſhall be forbidden to the Subjects of both Crowns to paſs the ſaid Limits to go by Land or by Sea the one to the other, as likewiſe to diſturb the Trade of either Nation amongſt themſelves, and to diſturb the *Indian* Nations who are Allies, or have made their Submiſſion to either Crown.

VIII.

The King will give leave to the Houſe of *Hamilton*, Colonel

That the Duke of *Richmond* may inherit from his Mother.

are propoſed as an Equivalent.

In this caſe his Majeſty would conſent that the River of St. *George* ſhould be the Limit of *Acadia*, as *England* has deſired.

If the Plenipotentiaries of the Crown do refuſe to admit of any Expedient for the Reſtitution of *Acadia*, the King rather than break off the Negotiation, will agree to their Demands, that is to ſay, to leave *Placentia* fortified, and reſtore the Guns of *Hudſon's Bay*, well underſtood that the Offer of yielding of the Iſlands of St. *Martin*, and of St. *Bartholomew*, and that of deſiſting from the right of Fiſhing and drying Cod upon the Coaſt of *Newfoundland* ſhall be null, and look'd upon as if they had not been made.

The Duke of *Richmond* having obtained Letters of Na

Colonel *Charles Douglaſſe*, and others, to lay before him after the Peace their Rights and particular Pretenſions, and will do them Juſtice.

That the 4th Article of the Treaty of *Riſwick* be aboliſhed, and that the King ſhall not hinder that the Affairs of Religion in the Empire be regulated on the Foot of the Treaty of *Munſter*.

Naturalization from the King, ſhall enjoy, when the Peace ſhall be concluded, the Priviledge annex'd to the Favour which His Majeſty has granted him.

The King is willing in regard to *England*, that this Affair ſhould be regulated with the Empire, His Majeſty not intending to derogate from the Treaties of *Weſtphalia* as to matters of Religion.

IX.

The King promiſes, in the Name of the King of *Spain* his Grandſon, that *Gibraltar* and *Port Mahon* ſhall remain in the Hands of the *Engliſh*.

That there ſhall be yielded to *England* an extent of Ground, of two Cannon Shot round *Gibraltar*, and all the Iſland of *Minorca*.

It is with a great deal of Trouble that the King has made the King of *Spain* conſent to give *Gibraltar* to the *Engliſh*, the Intention of that Prince being, as he has declared himſelf ſeveral times, not to give an Inch of Ground in *Spain*. It will yet be more difficult to obtain from him the leaſt Favour upon a point which is ſo tender at preſent, they preſſing him to renounce his Rights to the Crown of *France*, and that they will have him look upon *Spain* as the only Patrimony that he can leave to his Poſterity.

So that this new demand will certainly be refuſed, and the Power which His Majeſty has received from the Catholick King is directly contrary to this Pretenſion.

As he has not explain'd himſelf upon the entire Ceſſion of the Iſland of *Minorca*, the King is willing to imploy his good Offices to obtain it as a ſort of an Equivalent for the Ground which the *Engliſh* now ask about *Gibraltar*; and from this time His Majeſty promiſes, that on this Account the whole Iſland of *Minorca* ſhall be yielded to them.

X.

After the Peace ſhall be concluded, the *Engliſh* ſhall have the Treaty for *Negroes*, otherways the Agreement of *Aſſiento* for *Negroes*, on the ſame Conditions

That the *French* may not withdraw their Effects belonging to the *Aſſiento*, but upon *Engliſh* or *Spaniſh* Ships.

The concerned in the Company of the *Aſſiento* ſhall be ſtrictly bound to the Terms of their Agreement: of Conſequence they cannot Trade directly to the

tions that this Agreement was made by the King of *Spain* to the *French*, ſo that the Company which ſhall be eſtabliſhed in *England* for this Purpoſe, ſhall have the Prerogative to ſet on Shoar, Sell, and Vent their *Negroes* in all the Places and Ports of *America* upon the North Sea, in that of *Buenos Ayres*, and generally in all the Places and Ports where the Ships of the Company formed in *France* under the Name of the *Aſſiento*, had leave to enter.

XI.

The ſaid Agreement ſhall be for the Term of Thirty Years, and there ſhall be appointed for the *Engliſh* Company of the *Aſſiento* an extent of Ground on the River *Dela Plata*, upon which they may not only refreſh their *Negroes*, but keep them ſafe till they are ſold, according to the Conditions which ſhall be ſtipulated by the Agreement which is to be made for the *Aſſiento*, and to hinder that this Licence may not be made an ill uſe of, the King of *Spain* ſhall name an Officer to hinder it, to whoſe inſpection the concerned in the ſaid Company, as likewiſe all thoſe whom they ſhall imploy, ſhall be Subject.

That this Ground ſhall be choſe by the *Engliſh*, and that the *Spaniſh* Inſpector ſhall be ſuppreſſed.

XII.

All the Advantages, Rights and Priviledges, which are already granted, or may hereafter be granted by *Spain* to the Subjects of *France*, or to any other Nation whatever, ſhall likewiſe be allowed to the Subjects of *Great Britain*.

XIII.

His Majeſty promiſes likewiſe that all the Merchandizes of the growth and fabrick of *Great Britain*, which from the Ports of *Spain*, the *Indies* under pretence of withdrawing their Effects, they ſhall abſolutely looſe them, if they ſhould be obliged to imploy other Ships to load them than thoſe belonging to their Company.

The Deſign of the Peace being to procure the Mutual Advantage of the *French* and of the *Engliſh*, it would not be juſt that one of the firſt Advantages which it ſhould procure for *England*, ſhould be to the prejudice of the *French* Nation. If the *Engliſh* will Treat about the Effects of the *French* Company, they will remove by this Expedient the inconvenience they apprehend.

They know in *England* the Demands which were made of the King upon this Head. His Majeſty has obtained them with a great deal of Trouble from the King his Grandſon, he cannot ask nor ſuffer in his Name new Additions to what has been already yielded in Favour of the Peace; if the *Engliſh* believe they ought to inſiſt to obtain new Advantages, they muſt Treat directly with the Plenipotentiaries of *Spain*, and to this end let them have immediately the neceſſary Paſsports to come to *Utrecht*.

Spain, where the Ships for the *Spaniſh Weſt Indies* ſhall be cleared, ſhall be ſent to the *Indies*, ſhall be exempted from all Cuſtoms, as well thoſe of going in, or coming out of *Spain*, as thoſe of going into the *Indies*.

XIV.

All the Articles above mentioned ſhall be extended in the Treaty of Peace, in the moſt ample Manner, and the moſt convenient, and there ſhall be added all the Clauſes of the Ceſſations from Hoſtilities, and other reciprocal Pledges, according to what has been done in former Treaties, which ſhall be recited to have their former Force and Vigour, excepting thoſe things which this has derogated from, and this Clauſe ſhall be put at the end of each Inſtrument.

Offers of France *to the Duke of* Savoy.	*Demands for the Duke of* Savoy.	*The King's Anſwers.*
I. His Right, and his Rank, to the Succeſſion of *Spain* ſhall be declared and acknowledged conformable to the Will of *Charles* the Second.	It is demanded that this Article be put in theſe Terms. The Rank of the Duke of *Savoy* to the Succeſſion of *Spain*, ſhall be reſerved to his Royal Highneſs, according to his Right.	The King is willing on account of *England*, to paſs this Article as it is demanded by her, notwithſtanding the intereſt which his Majeſty may have, to recite and mention on this occaſion the Will of *Charles* the Second.
II. The King ſhall reſtore to him *Savoy* and the County of *Nice* with their Dependencies.		
III. The King will moreover yield to him *Exilles* and *Feneſtrelles* with the Valley of *Pragelas*.	His Royal Highneſs asks that beſides the Vallies on the other ſide of *Mount Geneva*, in which are comprehended that of *Chateau Dauphin*, *Fort Barraux*, and the Territory which extends from that Fort to the Frontier of *Savoy*, as it is mentioned in the 4th Article of his Specifick Demands, the Villages	The King cannot believe that *England* deſiring the concluſion of a firm and ſolid Peace, will give riſe to new Wars, in giving the Gates of *France* to the Duke of *Savoy*. He has neither right nor even an apparent pretext for to ask as he does a part of *Dauphiny*, he cannot ſupport upon any juſt and reaſonable Foun-

lages on the other ſide of the *Rhone* on the ſide of *Savoy*, the right of Garriſoning *Monaca*, and the direct Demeſn of *Manton* and of *Roquebrun*.

Foundation, the pretenſions which he makes upon the Eſtate of a third Perſon, as is the Prince of *Monaco*; ſo that his Majeſty thinks that he does very much in leaving, out of regard to *England*, *Exelles*, *Feneſtrelles*, and the Valley of *Pragelas* in the Hands of the Duke of *Savoy*.

He had even reaſon to think from the firſt Propoſals, that they knew in *England* that this Prince ought to content himſelf with the Reſtitution of *Savoy*, and of the County of *Nice*, without making a further demand of theſe two Places, which cannot belong to him by any Title but by that of War, and that they are convenient for him.

IV.

The Ceſſions in the *Milaneze* and others made by the Emperor *Leopold* to his Royal Highneſs, ſhall be confirmed.

V.

His Royal Highneſs may make ſuch Fortifications as he ſhall think fit in the places acquired by the foregoing Treaties, tho' without derogating from that of *Turin* in 1696.

That he ſhall have power of fortifying all the places he ſhall think fit, notwithſtanding the Treaty of *Turin*.

The intention of the Duke of *Savoy* is probably to fortifie *Pignerol*; the intereſt of *France* has not changed ſince the Treaty made at *Turin*, in 1696, it is not of leſs importance, than it then was to hinder the Duke of *Savoy* from fortifying that Town: one may even ſay that the danger would be greater, this Prince acquiring beſides, *Exelles* and *Feneſtrelles*, and his Strength being increaſed on the ſide of *Italy*.

England becoming a Friend to *France*, ought not to be leſs concern'd for its quiet, and the Tranquillity of its Provinces, than for the unneceſſary Aggrandizing of the Duke of *Savoy*.

VI.

The Trade from *France* into *Piedmont*, and from *Piedmont* into *France*, ſhall be on the Foot of the Treaty of *Turin*.

VII.

His Royal Higneſs may have liberty to ſell the Barony of *Eſſarts*, and other Eſtates and Effects that he may have in *France*.

VIII.

The King conſents that his Royal Highneſs may increaſe his Dominions in *Italy*, as much as he ſhall think fit.

Offers of France *for* Pruſſia.	*Demands for* Pruſſia.	*The King's Anſwers.*
I. The King of *Pruſſia* ſhall be acknowledg'd by *France*.		
II. The King ſhall let him peaceably injoy the Sovereignty of *Neufchatel* and *Valengin*, with promiſe never to diſturb him in this poſſeſſion, nor to give any ſort of Aſſiſtance to thoſe who would diſpute it with him.	That the Counties of *Neufchatel* and *Valengin*, be acknowledged as Members of the Helvetick Body, by the conſent of his Majeſty.	This Novelty does not depend on the Conſent of the King, all the Helvetick Body is concerned in this Propoſition, it will not be unanimouſly received by all the Members who compoſe it, it will be the intereſt of ſeveral to oppoſe it, and perhaps even all the Proteſtant Cantons won't be of the ſame mind. The Counties of *Neufchatel* and *Valengin* are Allies of the *Swiſs*, the King will promiſe to acknowledge them and treat them on that Foot.
III. The Subjects of the Crown of *Pruſſia* ſhall enjoy as to their Trade in *France*, the ſame advantages which ſhall be granted to the Subjects of Her Britannick Majeſty, and thoſe of the States General; on condition it ſhall be reciprocal.		
IV. The King ſhall favour with all his Power the Pretenſions of *Pruſſia* on the Cantoon of *Gelder*, the Town and the Country of *Ercklens*, of which ſhe makes a Demand, on condition that it coſts *France* nothing to indemnifie thoſe who would diſpute this Poſſeſſion with *Pruſſia*.		

V.

The King will give as far as Twelve hundred thouſand Livres, *French* Money, to this Prince, to buy his Right to the Principality of *Orange*.

That it ſhall be in his Choice, to take the Money which is offered, or the Frontier which he demands in *Franche Comté*. He offers only to leave the King the Caſtle of *Toux*, in Conſideration of an Equivalent. Moreover, that the Lands of the Houſe of *Chalons* ſhall be adjudged to him, and that all the Edicts and Decrees which have been given againſt the Proteſtants of *Orange* ſhall be revoked.

The King thinks he does much, and that he gives a particular Mark of his Conſideration for *England*, to give Twelve hundred thouſand Livres to this Prince, under pretence of buying his Rights, which his Majeſty knows he cannot make uſe of lawfully againſt thoſe who have Pretenſions to the Principality of *Orange*.

There is then no Choice betwixt this Offer, and a Pretenſion ſo ill grounded as this of the pretended Frontier, which the Miniſters of *Pruſſia* have made a Demand of in *Franche Comté*.

The Sum of Twelve hundred thouſand Livres, which is offered to their Maſter, is a Preſent which the King is willing to make him, for the good of the Peace, and to colour it only with a pretext of buying his Rights to the Principality of *Orange*; for otherwiſe the King would have no other Anſwer to make, than to give Aſſurances, that he would leave thoſe who have Pretenſions to the Principality of *Orange*, the liberty to follow them, before the Tribunals who ought to judge of them.

This Anſwer is the only one he can make on the Subject of the Lands of the Houſe of *Chalons* of which not any one has the appearance of Sovereignty, and of conſequence no pretence to withdraw themſelves from the Juriſdiction of the common Judges.

His Majeſty is accountable to no one for the Edicts and Decrees he gives for the Domeſtick Order of his Kingdom.

VI.

If this Prince accepts the Conditions above-mention'd, the King will give him the Title of Majeſty.

VII.

The King conſents, and demands himſelf, that the Thirteen Cantons ſhould be included in the General Peace.

Offers of France *for* Portugal.

I.

THE King will turn into a Final Treaty the Proviſional Treaty concluded between *France* and *Portugal* in 1700, reſerving to himſelf the Free Navigation of the River of *Amazons*, which is to be in common between the two Nations.

Demands for Portugal.

THAT the Advantages which have been promiſed to him by the Houſe of *Auſtria*, as well in *Spain* as in the *Indies*, be granted to him, *viz.* The Towns of *Badajoz*, *Alcantara*, *Albuquerque*, and *Valencia* in *Eſtramadura*; thoſe of *Bayona*, *Vigo*, *Tuy*, and *Guardia* in *Galicia*.

That all what is betwixt the River *de la Plata* and the *Braziles* be yielded to him, ſo that this River may ſerve for Limits to the two Countries.

That King *Philip* the Vth yield to him for a Barrier *Coria*, *Ciudad Rodrigo*, *Puebla de Canabria*, and *Montery*, with their Dependancies.

Moreover, that *Spain* pay what is due to the Ancient *Portugal* Company of the *Aſſiento*; of which *England* and the *States General* are Guarantees.

Laſtly, That *France* yield to him the Lands of *Cape de Nord* in South *America*, notwithſtanding any Proviſional or Final Treaty.

The King's Anſwers.

IF the King of *Portugal* had conquered *Spain*, or contributed by mighty Armies to bring it under the Obedience of the Archduke, he would not make larger Demands than thoſe contain'd in this Article. The Catholick King will give nothing to the *Portugueze* in *Spain*.

It is not probable that He will be more eaſy as to the Demands they make in the *Indies*. This is an Article to be diſcuſs'd between the Plenipotentiaries of *Spain* and *Portugal*, as alſo the Accounts which are to be adjuſted of what is due to the Ancient *Portugal* Company of the *Aſſiento*.

One muſt only take notice, That if the Pretenſions of the *Portugueze* were liſten'd to, the Catholick King would have only the Name of King of *Spain*; but that in reality his Kingdom would be ſhared with a powerful Enemy; that for to buy an uncertain and dangerous Eſtate, they will oblige him to renounce his Rights and thoſe of his Poſterity to the Monarchy of *France*.

The King does a great deal for the *Portugueze*, by his agreeing that the Proviſional Treaty concluded at *Lisbon* in 1700, ſhould be turned to a Final Treaty; it is all what his Majeſty can grant them; they ask'd for no more when they ſigned the Treaty of an Offenſive Alliance with him and the King of *Spain*.

Offers of France *for the Houſe of* Auſtria *and the Empire.*	*Demands of the Houſe of* Auſtria, *and of the Empire.*	*The King's Anſwers.*
I.		
THE *Rhine* ſhall be the Boundary betwixt *France* and the Empire; ſo that the King will return *Briſac* and Fort *de Kell* in the Condition they are in, will yield *Landau* in the Condition it is in, will demoliſh all the Forts he is in Poſſeſſion of on the other ſide of the *Rhine*, and in the *Rhine*, Fort *Lewis* to be comprehended amongſt them, as alſo that of *la Pile* near *Strasburg*; on Condition, and not otherwiſe, that the King ſhall retain all what he is in Poſſeſſion of on this ſide of the River, agreeable to the Treaty of *Ryſwick*.	THat *Strasburg* be returned, *Honingen* and new *Briſac* be demoliſhed, That *Alſace* do not remain in the Hands of *France*; but according to the Interpretation which the Empire and the Houſe of *Auſtria* do give to the literal meaning of the Treaty of *Munſter*.	THE King will keep *Strasburgh*, which was yielded to his Majeſty, not alone as a Conſequence of the Rights which the Ceſſion of the *Alſace* gave him to that Town, but likewiſe for an Exchange for *Fribourg*, *Briſac*, and of the Right of Garriſoning of *Philipsburgh*, which his Majeſty acquired by the Treaties of *Weſtphalia* and *Nimeguen*. The Fortifications of *New Briſac* ſhall ſubſiſt, this Place being neceſſary for a Barrier for *France*, when ſhe returns *Old Briſac* to the Houſe of *Auſtria*. There is no other Interpretation to be given to the Treaty of *Munſter*, as to the Poſſeſſion of *Alſace*, than the Meaning which was underſtood by the Ambaſſadors and Miniſters who Sign'd the Treaties of *Nimiguen* and *Ryſwick*.
II.		
The King ſhall acknowledge the Elector of *Hanover*.		
III.		
The Elector of *Treves* ſhall be re-inſtated in the Poſſeſſion of his Town of *Treves*, and generally in all what belongs to him.	He demands his Re-eſtabliſhment as Grand Prior of *Caſtile*, and the Reſtitution of the Fruits, which he pretends have only been ſequeſtred.	The King promiſes to obtain from the King of *Spain*, that the Grand Priorſhip of *Caſtile* ſhall be returned to the Elector of *Treves*. As to the Reſtitution of the Fruits, his Majeſty promiſes his Offices to procure it, not knowing the Cuſtom of *Spain* in ſuch Caſes; and this is another Point to be diſcuſs'd with the Plenipotentiaries of that Crown.

IV. The

IV.

The King conſents, if the Empire thinks fit, that the Landgrave of *Heſſe-Caſſel* be put in poſſeſſion of *Rhinfelt*, *St. Gour*, and *Kalz*, on condition that Matters of Religion are kept on the ſame Foot they now are.

It is demanded that the Article of Religion be decided by the Empire.

As the Matter relates particularly to the Empire, the King conſents it ſhould be referr'd to its Deciſion.

V.

As to what relates to the Houſe of *Auſtria* in particular, the King promiſes, that the King of *Spain* ſhall yield to them the Kingdoms of *Naples* and *Sardinia*, the four Places in *Tuſcany*; and as to the Dutchy of *Milan*, that of it which ſhall not be yielded to the Duke of *Savoy*.

The *Spaniſh Netherlands*, excepting the Town and Territory of *Gueldre*, which are to be kept by *Pruſſia*, as it is explain'd above.

Sicily is demanded for the Houſe of *Auſtria*.

The King and the King of *Spain* not only engaged to the Elector of *Bavaria* to re-eſtabliſh him in his Dominions, but alſo to make him an Amends for the Loſſes he has ſuſtained during the Courſe of this preſent War.

It is on this Account that the Catholick King has yielded to him the *Spaniſh Netherlands*; if it muſt be that the Elector muſt deſiſt from them for the Good of the Peace, the King and the King of *Spain* are obliged to make him ſome other Amends; the Kingdom of *Sicily* is the only State which *Spain* can give to this Prince, and to ſatisfie the Engagements entred into with him.

It is the more neceſſary to ſtipulate this Condition, being it appears that the Empire oppoſe his being re-eſtabliſhed in his Rank of Firſt Elector; and that it is demanded that the *Upper Palatinate* ſhould be kept by the Elector Palatine, and after him by Prince *Charles* of *Neubourg*, his Brother; not to return to the Elector of *Bavaria* or his Children, but after the Death of theſe Princes.

VI.

The Whole on Condition that the Electors of *Cologne* and *Bavaria* be reeſtabliſhed in their Dominions, Dignities, Goods, and Moveables, *&c.*

They will not be againſt the Dutchy of *Bavaria*'s being returned to the Elector of that Name, and that he ſhall be the ninth and laſt Elector, on Condition that he ſhall give up his Pretenſions to the *Upper*

Tho' this Condition be prejudicial to the Elector of *Bavaria*, the King is willing to conſent to it, allowing the Amends of the Kingdom of *Sicily*, becauſe the Title of King will wipe off what is ſhocking, in being

the

Palatinate, and the Dignity of First Elector, without Hopes of enjoying it, but after the Death of the Elector Palatine, and of Prince *Charles* of *Neubourg*, his Brother.

And as to the Elector of *Cologne*, when he shall be reinstated in his Dominions, it shall be in the choice of the Allies whether they will Garison the Town of *Bonn* or not.

the last Elector, which they will give him instead of the first Place he had in the Electoral College.

His Majesty proposes, that the Fortifications of *Bonn* should be demolish'd, and this Expedient seems more suitable to him, than to put a Garison in that Place, which does not depend on the Elector of *Cologne*.

VII.

A General Pardon shall be granted reciprocally to the Subjects of all the Parts of the *Spanish* Monarchy, who shall have followed different Parties in this War, with Restitution of their Honours and Estates.

Offers of France *for the* States-General.	*Demands for the* States-General.	*The King's Answers.*
I.		
THE Catholick *Low-Countries*, except what part the King is to keep, and the Exception above-mentioned of *Gelder*, shall belong in Property to the House of *Austria*.		
II.		
The Barrier shall be formed out of the *Spanish Netherlands*, as they are now possess'd by the Allies, to which *Luxemburg* shall be added, reserving the Principality of Thirty thousand Crowns *per Ann.* given by the King of *Spain* to Madam the Princess *des Ursini*, *Namur*, *Charleroy*, *Newport*, *Ypres* and its Chatelane, *Furnes* and *Furnambac*, *Knocque*, *Menin* and its District; on Condition that *Lille*, in the state it now is in, with its Dependencies, shall be return'd to *France* as an Equivalent for the Demolition of *Dunkirk*, and *Tournay* with	Besides the Places offer'd for the Barrier, the Cession of *Tournay*, and the District of *Tournay* is demanded; as likewise *Conde*, the Guns, and Stores of War, which are in the Places which are to be yielded. Moreover, a Renunciation for ever, for all the Kings, Princes, and Princesses of the Blood-Royal of *France*, to all Rights present or to come, or which possibly may, to all what shall compose the Barrier in whole or in part. It is refused to agree about the Principality granted or reserved for the Princess *des Ursini*.	The King insists upon the Restitution of *Tournay*, and the District of *Tournay*, as being essential to secure the Barrier which *France* has occasion for on the side of the *Low-Countries*. This Barrier is the more important, being the Strength of the House of *Austria* becomes formidable, by the re-uniting so many considerable Dominions in the Person of the same Prince. Every thing is to be fear'd from so dangerous a Neighbour, who applies himself more to his Affairs than any of his Predecessors; who glories

the Diſtrict of *Tournay*, *Douay*, *Bethune*, *Aire*, *St. Venant*, and *Bouchain*, in the Condition they are in, with what belongs to them, as likewiſe all the Guns and Stores of War, which ſhall be found in them, in Exchange for the Places which *France* adds to fortifie the Barrier, and thoſe which will be yielded by the Elector of *Bavaria*, who is actually in Poſſeſſion of them.

in following the Steps of *Charles* the Vth. and does not conceal the Deſign he has to aggrandize himſelf. It cannot be doubted neither, but that he will be powerfully aſſiſted by the Republick of *Holland*, Experience having ſhewn, that far from being afraid of the Power of the Houſe of *Auſtria*, this Republick makes its Glory and Safety conſiſt in multiplying the Number of the Dominions of this powerful Houſe.

The ſame Reaſon of Securing the Frontier of his Kingdom, requires that the King ſhould keep the Town of *Condé*; and his Majeſty will not relax any thing upon this Article.

Being he knows all the Conſequences of it, he will be very ſenſible of the Pleaſure which *England* will give him, in contributing that *Tournay* and its Diſtrict may be reſtored, and cauſing all Demands about *Condé* to be laid aſide: And to give real Tokens of it to that Crown, his Majeſty will oblige himſelf, that if *Tournay* and its Diſtrict are return'd to him, that all Demands about *Condé* be laid aſide, and that he keeps that Place by the Peace. In this caſe he will conſent, purely out of Regard to *England*, to fill up the Port of *Dunkirk*; tho' his Majeſty being ſenſible of the Damage that this Article, ſo ſtrenuouſly demanded by the *Engliſh*, will be to him, has always refuſed to agree to it.

He will moreover conſent to demoliſh the Fortifications of Burgh *St. Dinox*, with Fort *François* which belongs to it; and even, if it is neceſſary, to yield this demoliſhed Town to the Prince to whom the *Netherlands* ſhall belong.

He will likewiſe conſent to leave the Cannon and the Stores of War which ſhall be found in the Places he will yield, on Condition that the Cannon and Stores of War do likewiſe remain in the Places which ſhall be yielded to him, and belong to his Majeſty.

The Agreement ought to be reciprocal; either to leave all the Artillery, and what belongs to it, in the Places which are to be yielded, as well on the King's ſide, as on that of his Enemies; or to regulate the Quantity which ſhall be left in each of the Places.

The Renunciation which is demanded of the King, is a Clauſe taken out of the Preliminaries of 1709. There would be many Reaſons to refuſe it, as unneceſſary, and even as abſurd; but his Majeſty is willing to agree to it.

Being the Principality reſerv'd of the Princeſs *des Urſini* has no relation to the Publick Affairs, the King deſires the Difficulty on this Head may be ſurmounted.

III. As

III.

As to the Trade of *Spain* and the *Indies*, it ſhall be on the ſame Foot as it was in the Reign of *Charles* II. And as to that of *France*, it ſhall be as it is ſtipulated by the Treaty of *Ryſwick*; and the Tariff of 1664 ſhall be followed, excepting the four Species of Merchandize, on the Conditions which ſhall be agreed upon.	It is reſerv'd to treat concerning the four Species of Merchandize.	The King agrees to it.

N° 35.

Inſtructions for our Right Truſty and Well-beloved Couſin and Councellor Henry *Viſcount* Bolingbroke, *whom We have appointed to go to the Court of* France.

ANNE R.

YOU are immediately to repair to the Court of *France*; and being arriv'd there, to demand an Audience of his moſt Chriſtian Majeſty.

You are to preſent to this Prince our Letter which is herewith delivered to you, and to acquaint him that We obſerve, with great Concern, that new Difficulties have ariſen, and new Delays have been created in the Negotiation, which we thought on the Point of being concluded: That we have ſent you over fully inſtructed in all Our Intentions, and fully authorized to treat and ſettle every Thing neceſſary to remove the Obſtructions which hinder the General Suſpenſion of Arms from taking place. That you are likewiſe empower'd to concert with his Miniſters the moſt proper Means of preventing ſuch other Differences as can be now foreſeen, and of ſettling the Treaty of Peace in ſuch a Courſe as may bring it to a happy and ſpeedy Concluſion.

You are to add the Aſſurances of Our earneſt Deſire to ſee a perfect good Underſtanding between the Two Nations reſtored; and to uſe all other Terms of Civility, which may be proper, in Our Name.

When you proceed to treat with the Miniſters at this Court, you will begin, by acquainting them, that We have directed and empower'd you to conclude and execute the Convention for a General Suſpenſion of Arms by Sea and Land, between Us and *France* and *Spain*: And We do hereby Authorize you accordingly to agree to the ſame for two, for three, or four Months or to continue it till the Concluſion of the Peace.

But whereas We have not yet receiv'd Satisfaction in thoſe Demands which We have thought fit to make in the behalf of the Duke of *Savoy*: And whereas the Settlement of the Term for the Suſpenſion of Arms muſt in great meaſure be govern'd by the time, which the compleat Execution of the Article for preventing the Union of of the Two Monarchies of *France* and *Spain*, will require; you are therefore, before you ſign the Convention aforeſaid, to expect poſitive Aſſurances that the Terms which we demand of *France* and *Spain* ſhall be made good to his Royal Highneſs, and as far forth as poſſible to adjuſt and determine the Forms of the ſeveral Renunciations and Settlements.

As to the Barrier which his Royal Highneſs demands and judges neceſſary for his Security on the ſide of *France*, you are not required to inſiſt to have thoſe Articles immediately granted which have been hitherto peremptorily refus'd by his moſt Chriſtian Majeſty; nor, on the other hand, are you to agree to any thing which may foreclose the Duke of *Savoy* from Negociating for himſelf. This Point We chuſe to leave to be ſettled between

tween the Two Powers concern'd. But you will not fail to recommend to the *French* Miniſters to haſten the Concluſion of it, inſinuating to them, that tho' you can agree to the Suſpenſion of Arms without waiting to have this Barrier entirely ſettled; yet that you do not imagine there will be any poſſibility of prevailing on Us to ſign the Peace with *France* and *Spain*, unleſs full Satisfaction be given to his Royal Highneſs, and unleſs We can take him along with Us in the doing thereof.

There ſeems to be little or no difference between what has been propos'd from hence, and what is agreed to on the part of *France*, concerning the Right to be eſtabliſh'd in the Duke of *Savoy* and his Children, immediately after *Philip* and his Children, to the Succeſſion to the Crown of *Spain* and the *Weſt Indies*.

You are therefore to have this Article again explain'd, and to bring it as near as poſſible to the Terms made uſe of in the Memorial drawn by the Count *de Maffei* upon this Subject.

Concerning the Ceſſion of *Sicily*, you are to inſiſt that it be made in the manner demanded by Us; and that this Act as well as thoſe neceſſary on the precedent Head, be finiſhed at the ſame time as the Renunciations and Settlements of the Crowns of *France* and *Spain* ſhall be made.

You are to refuſe to conſent to defer the actual Surrender of this Iſland to his Royal Highneſs till the General Peace: But you are at liberty to agree that he ſhall not take Poſſeſſion thereof, until his and Our Peace be made with *France* and *Spain*. In other reſpects, you will bring this Article likewiſe as near as poſſible to the Terms made uſe of by the Count *de Maffei* in his Memorial.

It ſeems too indifferent to either ſide, whether a formal Suſpenſion of Arms be agreed to between *France* and *Savoy*, or not to have this Matter much inſiſted on; and there may be ſome Reaſons why in Prudence the Duke of *Savoy*'s Accommodation ſhould be yet a while conceal'd. You will therefore have the leſs regard to this Point, and treat for his Royal Highneſs, upon the Suppoſition and Condition of his coming into the Peace when We ſhall do ſo. And whereas it has been ſurmized that his Royal Highneſs might think of exchanging *Sicily* for ſome other Territories contiguous to his own, which would by no means be agreeable to Our Deſign, or to the Intereſts of Our Kingdoms; you may therefore conſent to an Article to prevent the Exchange or Alienation of this Kingdom from the Houſe of *Savoy*.

As to the ſecond Point which you are to adjuſt, as far forth as is poſſible, We have directed what has been prepar'd by the Civilians upon this Subject, to be put into your Hands; of which you will make the beſt uſe you are able, and you will endeavour to agree the ſeveral Forms in ſuch manner, and to concert ſuch Meaſures for the diſpatch of them, that when the Perſons whom We ſhall think fit to appoint to be Witneſſes of theſe Renunciations and Settlements, ſhall arrive in *France* and *Spain*, there may be as little room as poſſible left for Diſpute or Delay.

The moſt Chriſtian King being very earneſt to obtain ſome Advantageous Conditions for the late Elector of *Bavaria*; you are to inform the *French* Miniſters, that We ſhall readily agree to have this Prince reſtor'd to all which he enjoy'd in the Empire, except his Rank of Firſt Elector, and except the *Upper Palatinate*, both which are to remain and belong to the Elector *Palatine*. We think this a ſufficient Conceſſion on our part in favour of the Prince abovemention'd, who being in Poſſeſſion of *Namur*, *Luxemburg*, *Charleroy*, and *Newport*, uſe may be made thereof in the General Treaty of Peace; and he may have an Opportunity there, in Exchange for theſe Places and Countries, to obtain ſomething farther for himſelf.

You may however, if you ſhall find it for Our Service, conſent on Our part, that he have the Kingdom of *Sardinia* yielded to him; for the obtaining whereof, the Poſſeſſion juſt now mention'd ſeems to be an adequate Security.

In treating of the ſeveral Matters entruſted to your Management, you are to have eſpecial Care to avoid entangling Us in any new Engagements; and for that Purpoſe, you are to ſay and to repeat, that We ſhall willingly enter into the Common Guaranty for ſupporting that Settlement of *Europe* which ſhall be eſtabliſh'd by the General Peace; but that We will not be tied down to any Stipulation which may oblige Us to make War, and eſpecially with Our old Allies, in order to procure this Settlement. It is Advantage enough to *France* that the Conduct of Our Allies has made it reaſonable, juſt, and even neceſſary for us to withdraw Our ſelves out of the preſent War.

After you ſhall have receiv'd ſufficient Satisfaction in all the Points before mention'd, you may proceed to ſpeak to ſuch Articles as relate particularly to the Intereſts of *Great Britain*, and endeavour to have ſuch of them, as there may appear to be any doubt concerning, explain'd in the moſt Advantageous manner.

You

You will likewiſe do your beſt to diſcover upon the ſeveral parts of the General Plan of Peace, what the Real *Ultimatum* of *France* may be, and upon this Head you are to ſay, that when we ſhall conclude our Treaty, it may be expedient to fix a time for the Allies to come in. During which, our good Offices ſhall be employ'd to reconcile the Diſputes which may ariſe, and to render the Peace General. But we ſhall not do any thing like impoſing the Scheme offer'd by *France* upon our Allies, or debarring them from the liberty of endeavouring to obtain ſtill better Terms for themſelves.

When you ſhall have concluded the Convention for the ſuſpenſion of Arms, you may diſpatch to Our Truſty and Well-beloved Sir *John Jennings* Knight, Our Admiral, and Commander in Chief of Our Fleet in the *Mediterranean*, to Our Truſty and Well-beloved *William Chetwynd* Eſquire, Our Envoy Extraordinary to the Republick of *Genoa*, and to the Commander in Chief of Our Troops in *Catalonia*, Our Orders which are herewith put into your Hands; and at the ſame time you are to Concert with the Miniſters of *France*, not only the ſafe Retreat of the Emperor's Forces out of *Catalonia*, if his Imperial Majeſty ſhall think fit to withdraw them, but alſo the March of the *Portugueſe* Troops, which are now ſerving there, back into their own Country.

We have likewiſe Ordered fifty Paſſes Sign'd by Us in Blank, to be put into your Hands, which you will exchange againſt the like Number, as ſoon as the Suſpenſion ſhall be agreed: And you may acquaint the French Miniſters that more will be ſent from hence by every Opportunity.

Given at our Court at Windſor-Caſtle, *the 31ſt Day of* July, 1712. *in the Eleventh Year of Our Reign.*

A. R.

Hague, June *the 5th.* 1712. *N. S.*

N°. 36.

MADAM,

AFter all the Proofs which Your Majeſty has given during the courſe of Your Glorious Reign, of Your great Zeal for the Publick Good, and of Your Adherence to the Common Cauſe of the High Allies; after ſo many Marks You have had the goodneſs to give us of Your tender Affection, and of Your Friendſhip to our Republick; and after the repeated Aſſurances You have given us, and that very lately too, of Your Intentions, that your Troops ſhould act againſt the Common Enemy, until the War was concluded by a General Peace; it is impoſſible we ſhould not be Suprized and Afflicted by two Declarations we have lately received one after another, in the Name of Your Majeſty; the firſt by the Duke of *Ormond*, Your General, That he could undertake nothing without new Orders from you; The other by the Biſhop of *Briſtol*, your Plenipotentiary to the Congreſs at *Utrecht*; That Your Majeſty perceiving that We did not anſwer as we ought, the Propoſal which you had made us, and that We would not act in Concert with your Miniſters, on the Subject of Peace, you would take your Meaſures apart; and that you did not look upon your ſelf to be now under any Obligation whatever with Reſpect to Us.

As ſoon as We had Notice of thoſe Declarations, We ſent Orders to Our Miniſter, who has the Honour to reſide at your Majeſty's Court, to repreſent to you the Reaſons of our Surprize, and the Conſequences of thoſe Declarations, and to requeſt you with that Reſpect which we always had, and which we ſhall for ever entertain for your Royal Perſon, That you would give other Orders to the Duke of *Ormond*, that he may Act with all poſſible Vigour, according to the exigency of the War; And that your Majeſty would have the goodneſs to entertain other Sentiments of Us, than thoſe which the Biſhop of *Briſtol* has declar'd to our Plenipotentiaries at *Utrecht*.

But the more we conſider thoſe Declarations, the more important we find them, and the more we apprehend the Conſequences: Therefore we could not forbear applying our ſelves by this Letter directly to your Majeſty, hoping that you will conſider it, as we promiſe our ſelves you will, both from your great Prudence and Wiſdom, and from your ſo much fam'd Zeal for the Publick Welfare; particularly from your uſual Friendſhip and Affection for us and our Republick.

We proteſt before all things, That as we ever had a true Friendſhip, as well as the higheſt Reſpect for your Majeſty, and a ſincere Affection to all your Intereſts, with an earneſt deſire to live in a perfect good Underſtanding and Union with you, We have ſtill the ſame Sentiments, and ſhall always preſerve them, wiſhing for nothing more, than to be able to give your Majeſty the moſt convincing Proofs of it.

After this, we pray your Majeſty to conſider, according to your great Penetration, whether we have not juſt ground to be Surprized, when we ſee a ſtop put, by an Order in your Majeſty's Name, without our Knowledge, to the Operations of the Confederate Army, the Fineſt and Strongeſt which perhaps has been in the Field during the whole courſe of the War, and provided with all Neceſſaries to Act with Vigour; and this after they had March'd according to the Reſolution taken in Concert with your Majeſty's General, almoſt up to the Enemy, with a great Superiority both as to the Number and Goodneſs of Troops, and animated with a noble Courage and Zeal to acquit themſelves bravely; ſo that in all Human Appearance, and with the Divine Aſſiſtance, which we have experienc'd ſo viſibly on ſo many other Occaſions, we ſhould have been able, either by Battle or Sieges, to gain great Advantages over the Enemy, to have better'd the Affairs of the Allies, and to facilitate the Negotiations of Peace.

We flatter our ſelves indeed with the Hopes which the Duke of *Ormond* has given us, That in a few Days he expects other Orders; But in the mean time We are ſorry to ſee one of the fineſt Opportunities loſt, being uncertain whether we ſhall have another ſo favourable, ſince the Enemy have time given them to Fortify themſelves, and take their Precautions, while the Army of the Allies lies ſtill without Action, and conſuming the Forage all round, deprive themſelves of the means of ſubſiſting for time to come, in thoſe Places, where by Concert, the Operations of the Campaign were deſign'd; which may make ſuch Enterprizes impoſſible hereafter, as were practicable now, and conſequently render the whole Campaign unſucceſsful, to the ineſtimable Prejudice of the Common Cauſe of the High Allies.

Certainly when we conſider the Army, as it really is, compos'd of the Troops of your Majeſties and the other Allies, join'd together by Common Concert, to act for the greateſt Advantage and furtherance of the Common Cauſe, and the Aſſurances which your Majeſty had given us by your Letters, by your Miniſters, and laſt of all, by your General the Duke of *Ormond*, of your Intentions, that your Troops ſhould be ordered to act with their uſual Vigour, as well as the Engagements into which your Majeſty is enter'd, not only with reſpect to us, but alſo ſeparately and jointly with us, in reſpect to the other Allies, it's very difficult for us to conjecture and conceive, how an Order ſo prejudicial to the Common Cauſe, given ſo ſuddenly without our Knowledge, and undoubtedly too without the Knowledge of the other Allies, can agree and conſiſt with the Nature of an Alliance, and with thoſe Aſſurances and Engagements juſt now mention'd. For tho' according to the Declaration of the Biſhop of *Briſtol*, your Majeſty holds your ſelf to be diſengag'd from every Obligation with regard to Us, 'tis plain that the Matter now in Queſtion, is not our particular Intereſt or Advantage, but that of all the Allies, who will ſuffer by the prejudice which an Order, ſo little expected, muſt needs bring to the Common Cauſe.

But, *Madam*, We cannot forbear telling your Majeſty, That the Declaration made by the Biſhop of *Briſtol* at *Utrecht*, has no leſs Surpriz'd us, than that of the Duke of *Ormond* in the Army. It appears to Us ſo extraordinary, that we know not how to reconcile it with the great Goodneſs and Kindneſs which your Majeſty has always honour'd us with; and not being able conceive how ſuch a ſudden Change could happen with reſpect to us; We are not only Surpriz'd, but Afflicted at it. We have carefully examin'd our Conduct, and find nothing in it that can have given Ground to that Diſſatisfaction which your Majeſty expreſſes with us by this Declaration.

From the very firſt Day that your Majeſty aſcended the Throne, we teſtified all the Deference that you could deſire from a State in Friendſhip and Alliance with you. We carefully ſought after your Amity and Affection, and conſidering the happy Effects, which a good Intelligence, Harmony and Union, betwixt your Majeſty and us, and the two Nations, might produce, and have really produc'd, and the Advantage which reſulted from thence to both, as well as to the Common Cauſe of all the Allies, we made it our Buſineſs heartily to Cultivate 'em, and more and more to gain your Majeſty's Confidence, and conform our ſelves to your Sentiments as much as poſſibly we could.

We

We think that we gave a ſignal Proof of this, particularly with regard to the Negotiations of Peace, ſince not only after we were inform'd of the Conferences formerly held in *England* upon this Subject, we did expect that your Majeſty would give us an Account of them, having this firm Confidence in your Friendſhip for our Republick, and in your Zeal for the Good of the common Cauſe, that nothing would be done to prejudice us nor the other Allies; but alſo when your Majeſty communicated to us the preliminary Articles ſign'd by M. *Meſnager* in *England*, and when you propos'd to us the calling and holding a Congreſs for a general Peace, and requir'd of us to grant for this End neceſſary Paſsports for the Enemy's Miniſters, we conſented to it, tho' we had many Reaſons, which to us ſeem'd very well grounded, not to enter into ſuch a Treaty without a better Foundation, or at leaſt without the Concurrence of the other Allies; but we preferred your Majeſty's Sentiments to our own, in order to give you a new Proof of our Deference.

We did no leſs with reſpect to the Difficulties which were ſtarted on the Subject of the Treaty of mutual Guaranty for the Succeſſion of the Proteſtant Line to your Majeſty's Kingdoms, and for our Barrier; a Treaty of ſuch Importance to the Two Nations, that we look upon it as the ſtrongeſt Tie that could be thought on, to unite for ever the Hearts and Intereſts of both, concluded after the matureſt Deliberation, and ratified on both ſides in the moſt authentick Form; for tho' we might have ſtood to the Treaty as it was, yet we enter'd into a —— Negotiation upon thoſe Difficulties, and particularly on the Point of the *Aſſiento*, concerning which we gave our Plenipotentiaries ſuch Inſtructions, that we no longer doubted but all the Difficulties would have been adjuſted to mutual Content, and that we ſhould thereby have entirely regain'd your Majeſty's Confidence; and the rather, becauſe in the firſt place, when the meeting of a Congreſs for a general Peace was in hand, your Majeſty declar'd to us by your Ambaſſador, that you deſir'd no more than our Concurrence in that ſingle Point, and this only Mark of our Confidence, and that then you would give us ſtrong and real Proofs of your Affection towards us, and of your upright Intentions with reſpect to the common Cauſe of all the Allies; and that afterwards, when the Difficulties about the Succeſſion and the Barrier were rais'd, your Majeſty did likewiſe aſſure us, that if we would remit ſomething upon the moſt eſſential Points, and particularly about the Affair of the *Aſſiento*, it would be the true way to re-eſtabliſh a mutual Confidence, which being once reſtor'd, your Majeſty would take particularly to Heart the Intereſts of this State, and act in Conjunction with us in the whole Negotiation to obtain an honourable, good, and ſure Peace.

But we find our ſelves very much out in our Expectation, ſince at the very ſame time, when we made the greateſt Advances towards your Majeſty, and that we did verily believe we ſhould come to an Agreement about the Points in Difference, we ſee the Earl of *Strafford* gone without finiſhing that Affair, we ſee the Army ſtopt in the beginning of its Career, and we hear a Declaration, by which your Majeſty looks upon your ſelf to be diſengag'd from all Obligations with us; for which the Reaſons alledg'd are, That we have not anſwer'd as we ought the Advances your Majeſty made towards us, and that we would not act in Concert with your Miniſters about the Peace.

If your Majeſty will be pleas'd to look with a favourable and equitable Eye upon our Conduct, we flatter our ſelves, and have a firm Confidence that you will find nothing in it, which can give you ſuch diſadvantageous Idea's and Thoughts of us; but that you will rather find that we have perform'd, and do ſtill perform all that we are bound to, as good and faithful Allies, and particularly to your Majeſty.

What we have ſaid already might perhaps be ſufficient to perſuade you of it, but we muſt add, that having always eſteem'd your Majeſty's Affection, and a good Harmony betwixt the Two Nations, as one of the ſtrongeſt Supports of our State, and of the Proteſtant Religion, and as one of the moſt effectual Methods to maintain and advance our common Intereſts, and thoſe of the whole Confederacy, and this ſincere Opinion being firmly imprinted on our Hearts, we were never backward to communicate and conſult in all Confidence with your Majeſty and your Miniſters upon the Affairs of the Peace, according to the Foundations laid down in the Grand Alliance and other Treaties; we declare that we have always been inclinable and ready to do it, and are ſo ſtill, as far as we can, without Prejudice to the other Allies, and without departing from or acting againſt the Engagements, Treaties and Alliances which we have enter'd into.

But, Madam, all the Propoſals hitherto made to us upon that Subject, were touch'd in very general Terms, without communicating to us the Reſult of the

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Negotiations betwixt your Majeſty's Miniſters and thoſe of *France*, nor even your Majeſty's Thoughts about the Subject, which we ought to have concerted together; 'tis true that in ſome of the laſt Conferences your Majeſty's Miniſters demanded to know whether ours were furniſh'd with a full Power, and authoriz'd to draw up a Plan for the Peace; but it had been juſt, before ſuch a thing was demanded of us, that they ſhould have communicated the Reſult of the Negotiations, ſo long treated of betwixt your Majeſty's Miniſters and thoſe of the Enemy's, or at leaſt they ſhould have told us your Majeſty's Thoughts.

Had that Plan related only to your Majeſty's Intereſts and ours, we ſhould perhaps have been in the wrong not to have forthwith come into it, tho' even in that Caſe the Affair would not have been without its Difficulties, ſince the leaſt Notice of it which ſhould have come to the Enemy muſt have been very prejudicial: But as the Plan in queſtion concern'd the Intereſt of all the Allies, and almoſt all *Europe*, we had very ſtrong Apprehenſions, that as the particular Negotiations betwixt your Majeſty's Miniſters and thoſe of *France*, and the Readineſs with which we conſented to the Congreſs at *Utrecht*, and to the giving of Paſsports to the Enemy's Miniſters, had already occaſion'd abundance of Suſpicions and much Uneaſineſs to his Imperial Majeſty and the other Allies; we ſay, we apprehend that his Imperial Majeſty and the other Allies coming to know (which would have been very difficult to conceal from them) the Concert betwixt your Majeſty's Miniſters and ours for a Plan of Peace, and that before the Miniſters of *France* had given a ſpecifick Anſwer to the Demands of the Allies, their Suſpicions and Uneaſineſs would have increas'd, and that way of proceeding might have given them Ground to entertain prejudicial Thoughts, as if it had been the Intention of your Majeſty and us to abandon the Grand Alliance and the common Cauſe, or at leaſt that we alone took upon us to determine the Fate of all the other Allies, by which his Imperial Majeſty and the other Confederates might have been puſh'd on to ſeparate Meaſures, and to take ſuch Steps as would be no ways agreeable to your Majeſty's Intereſt nor ours.

We thought theſe Reaſons ſtrong enough to juſtify our Conduct to your Majeſty on this Head, and if we did not enter with all the Readineſs which you might have wiſh'd for into the Concert propos'd, we hope that at moſt your Majeſty will look upon our Backwardneſs only as an Exceſs of Prudence or of Scruple, and not in the leaſt as a want of Confidence in your Majeſty, while the Allies might have conſider'd it as a departing from the Treaties, and particularly from the Eighth Article of the Grand Alliance; we alſo hope that your Majeſty (for the Reaſons here alledg'd) will lay aſide thoſe hard Thoughts of us, as if we had not anſwer'd as we ought the Advances which your Majeſty made towards us, and that we would not act in Concert with your Miniſters upon the Subject of the Peace. But, Madam, tho' your Majeſty ſhould not acquieſce in our Reaſons (of which however we cannot doubt) we pray your Majeſty to conſider whether that be ſufficient for your Majeſty to think that you are diſengag'd from all Obligations with reſpect to us.

Had we acted againſt and contraven'd the Engagements and Treaties which we had the Honour to conclude with your Majeſty, we might have expected from your Goodneſs and Juſtice that you would have repreſented thoſe Contraventions to us, and not have look'd upon your ſelf to be diſengag'd, till ſuch time as we had refus'd to give all neceſſary Redreſs; but as we did no ways engage to enter with your Majeſty into a Concert to draw up a Plan of Peace without the Participation of the other Members of the Grand Alliance, the Backwardneſs we have ſhewn upon that Head cannot be look'd upon as a Contravention of our Engagements, and therefore cannot ſerve to diſengage your Majeſty from yours, with reſpect to us, ſince we are verily perſuaded that we have fully anſwer'd all our Treaties, and all our Alliances, both with your Majeſty and with the High Allies in general, and that we have done more in this preſent War than could in Juſtice and Equity have been expected from us; all the Difference betwixt your Majeſty and us in this Point is no more, if rightly conſider'd, than a Diſparity of Sentiments.

In Truth, Madam, if for ſuch a Cauſe betwixt Potentates allied and united together by the ſtrongeſt and ſtricteſt Ties of Alliance, Intereſt and Religion, any one of thoſe Potentates could quit all their Engagements, and diſengage themſelves from all their Obligations, there's no Tie ſo ſtrong which may not be broke at any time, and we know of no Engagements that could be relied on in Time to come.

We aſſure our ſelves that, when your Majeſty conſiders the Conſequences, you will not perſiſt in the Declaration which the Biſhop of *Briſtol* has made, we beſeech you with all the Reſpect, and all the Earneſtneſs of which we are capable, that

you

you would not; and alſo that you would be pleas'd to revoke the Order given to the Duke of *Ormond*, if it be not revok'd already, and that you would authorize him to act according to Occurrences, and as the Exigency of the War and the Advancement of the common Cauſe ſhall require.

We alſo requeſt you, Madam, to communicate to us the Reſult of the Conferences betwixt your Miniſters and thoſe of the Enemy, or at leaſt your Thoughts upon the Peace, and we will endeavour to give your Majeſty all imaginable Proofs of our Deference for your Sentiments, and of our ſincere Deſire to preſerve your valuable Friendſhip as much as we can, without acting contrary to the Faith of the Engagements into which we have enter'd by Treaties and Alliances with your Majeſty and other Potentates.

We are firmly perſuaded, that it is not your Majeſty's Intention in any manner to break them, ſince you have always been of the ſame Opinion with us and the other Allies, that a good Union betwixt the Allies, not only during the preſent War, but alſo after the Peace ſhall be concluded, is, and always will be the moſt ſolid, and even the only Method to preſerve the Liberty and Independency of all together, and of every one in particular, againſt the great Power of *France*.

We expect alſo, that after having given ſuch great and ſignal Proofs of your Wiſdom, of your Firmneſs, and of your Zeal for the Support of the common Cauſe, your Majeſty will not now take ſuch Reſolutions as may be prejudicial to us and the other Allies, but that, in order to obtain an honourable, ſure, and general Peace, you will purſue the ſame Methods and keep to the ſame Maxims which you formerly held, and which Almighty God hath bleſs'd in ſo remarkable a manner by Victories and great Events, which will render the Glory of your Majeſty's Reign immortal.

We again renew to your Majeſty the Aſſurances of our high and perfect Eſteem for your Perſon and Friendſhip, as alſo of our Intentions and ſincere Deſires to entertain with your Majeſty the ſame good Correſpondence, Harmony and Union as before, and to cultivate the ſame betwixt the Two Nations, as far as it ſhall lye in our Power; and we pray your Majeſty to preſerve likewiſe for us and our Republick your former Affection. We refer for the reſt to what the Sieur *Van Borſele*, our Envoy Extraordinary, has further to ſay to your Majeſty on this Subject. And pray the Almighty, *&c.*

N°. 37.

Fontainbleau, Aug. 21. *N. S.* 1712.

My LORD,

I Left *Calais* on *Monday*, according to what I writ to your Lordſhip from that Place, and proceeded on my Journey to *Paris*, where I arriv'd about 6 a Clock *Wedneſday* in the Evening. On the Road I took all poſſible Precautions to conceal my Name, and to avoid all ſort of Ceremony, by ſtopping to refreſh my ſelf as little as poſſible, and when I did ſtop, by chuſing to do it out of the great Towns. My Care was however in a great meaſure fruitleſs, and they did their utmoſt in the Places thro' which I paſs'd to ſhew their Reſpects to the Queen, ſo that I arriv'd at leaſt as much fatigu'd with Compliment as tir'd with my Journey.

Soon after I got out of my Chaiſe, a Gentleman came to me from *Madame de Croiſſy*, brought her Coach, invited me to Supper, and told me that Monſieur *de Torcy* was coming Poſt from *Fontainbleau* to meet me. In effect I had not been long at the *Hotel de Croiſſi* before he arriv'd. There was no reſiſting his Importunities, as well as his Mother's, and I was forc'd to continue with them during my Stay at *Paris*. In theſe Two Days I loſt no Time, but purſu'd her Majeſty's Inſtructions with all the Application I am Maſter of, and I humbly hope that I have been ſo happy as to anſwer the Purpoſes for which ſhe ſent me hither.

We began with the Intereſts of the Duke of *Savoy*, from whence the principal Obſtacle to the Concluſion of the Suſpenſion of Arms by Sea and Land aroſe, and after ſome Conteſtation have adjuſted them in this manner.

The Right of this Prince and of his Family to the Crown of *Spain* and the *Indies*, after *Philip* and his Deſcendents, is to be ſubſtituted in the ſame Acts and at the ſame Time as the ſeveral Renunciations and Settlements are made, declar'd, and confirm'd, which are neceſſary to accompliſh the Article for preventing the Union of the Two Monarchies.

Monſieur *de Torcy* endeavour'd to leave this Point more looſe, and either to defer ſecuring the Succeſſion of the Houſe of *Savoy*, or at leaſt not to eſtabliſh it in the ſame Acts as are to paſs on the other Occaſion; But as I judg'd this to be the ſafeſt and moſt authentick manner, I inſiſted, and he yielded.

On the Ceſſion of *Sicily* he would have adher'd to the Terms of his laſt Diſpatch, and urg'd the Abſurdity of giving this Kingdom away till they were ſure of making Peace with *Savoy*. It was not difficult to ſhew that he had already departed from this Argument, and that there could be no reaſonable Objection to *Philip*'s making a Ceſſion of *Sicily* to the Duke of *Savoy*, at the ſame time as he conſented to ſecure to him the Succeſſion of *Spain* and the *Indies*; that if a Peace did not follow, every thing which had been done would of Courſe be void and that if it did follow, the Conſideration for which this Iſland was yielded would be obtain'd. This Point being over, there was little Diſpute about the Time when his Royal Highneſs ſhall be put into the actual Poſſeſſion of this Kingdom; we have ſettled it to be on the Ratification of a general Peace, or of a Peace between the Queen, *France*, *Spain*, and *Savoy*.

The Count *de Maffei* may not perhaps be ſatisfied with this Agreement, and I remember in his Memorial he deſired his Maſter might be at Liberty at any time to take Poſſeſſion; but the Duke of *Savoy* ought to look upon it as a very good Bargain, and to be contented to have the Advantages which are to accrue to him put into his Hands, when thoſe which her Majeſty ſtipulates for herſelf are put into hers.

I wiſh I could have prevail'd on the Head of the Barrier as far as I did on the other Two, but it was impoſſible, at leaſt it was ſo for me. Monſieur *de Torcy* repreſented that *Exilles*, *Feneſtrelles*, and the Valley of *Pragelas*, beſides the Reſtitution of all which *France* is in Poſſeſſion of, was the utmoſt which the King would ever conſent or had ever conſented to give: That when the Miniſters of *Savoy* made in *Holland* the ſame ulterior Demands which they now make, the Penſionary laugh'd at them, and even at that time did not puſh him to comply with them: That, under Pretence of Security, his Highneſs really ſought an Aggrandiſement at the Expence of *France*, and out of the ancient Domaine of this Crown: That tho' a King of *France* was a more powerful Prince than a Duke of *Savoy*, yet that the latter, back'd by a Confederacy, which is the only Caſe wherein he will attempt any thing, is a dreadful Enemy to the former: That they have here a Minority to expect, and therefore ought to be the more careful not to leave the Frontiers of their Kingdom expos'd: In ſhort, that *Sicily* was an ample Recompenſe to his Royal Highneſs for all the Services he has done the Queen, and that if her Majeſty was eaſy, he was ſure the Duke of *Savoy* would ſubmit: He concluded, by repeating very earneſtly, that the King never would grant him a larger Barrier, and that his Majeſty inſiſted to put this Negative now, ſince he was reſolv'd to do it at laſt, leaſt the Duke ſhould, by continuing in Hopes, ſpin out the Treaty, and delay concluding his Peace, for which reaſon he likewiſe inſiſted that the Queen ſhould concur in this Negative.

It is needleſs to lengthen my Diſpatch by telling your Lordſhip what Anſwers I made to theſe Repreſentations: I replied in the beſt manner I was able, and ended as I am inſtructed, by letting this Miniſter know that the Queen would conſent to nothing which ſhould forecloſe his Royal Highneſs from obtaining what, for ought ſhe knew, might be neceſſary; that this Point therefore muſt not be now look'd upon as determin'd, but muſt be left open for the Miniſters of *Savoy* to debate; that I did not underſtand her Majeſty's Intentions to be to enlarge the Duke of *Savoy*'s Dominions out of thoſe of *France*, but that I was ſure ſhe would not ſign a Peace, unleſs this Prince's Security was really and effectually provided for, which *France* having promis'd in general Terms to all the Allies, could not refuſe in any Particular to the Duke of *Savoy*.

The next Head to which we proceeded, was that of the Renunciations and Settlements neceſſary to prevent the Union of the Two Crowns, and in treating of this I cannot ſay that I met with any Difficulty; I gave no Hopes that any Expedient would be accepted to ſign the Peace before this Article was entirely accompliſh'd, tho' Monſieur *de Torcy* propoſed that the Peace ſhould not be delay'd for it, but the Ratifications ſhould. He has ſince conſulted Monſieur *Bergheyk*, and they are of Opinion that a Month's, or at fartheſt Six Weeks Time, will ſuffice to paſs all the Forms, ſo that I am deſired to recommend the Diſpatch of my Lord *Lexington*, or whoever elſe the Queen ſhall think fit to ſend into *Spain*; and I crave Leave to ſay, that it would be extremely out of Courſe if in *France* and *Spain* they ſhould be ready to finiſh this important Article, and we ſhould on our parts not be ready to witneſs the Execution of it, eſpecially when we puſh the concluding of the Peace, and refuſe to ſign until all theſe Forms are perfected.

The Draught of *Philip*'s Act of Renunciation, and the Minutes taken by Monſieur *de Torcy* and me, both which I tranſmit to your Lordſhip, will, I ſuppoſe, be a ſufficient Ground-work of Inſtructions to thoſe whom her Majeſty ſhall chuſe to ſend hither and to *Madrid*.

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The laſt Point, and that on which we had the warmeſt Debates, was concerning the Elector of *Bavaria*. As ſoon as I arriv'd at *Paris* I heard that he was come to *Chaillot* in the Neighbourhood, and Monſieur *de Torcy* either was, or affected to be, under ſome Uneaſineſs at the Reproaches which this Prince would, he ſaid, with reaſon give them, unleſs they provided better for him than the Queen had hitherto ſeem'd inclin'd to allow.

He turn'd this Matter ſeveral ways, and made variety of Propoſitions, which it was plain enough were not *extempore*, tho' he appear'd deſirous I ſhould look upon them as ſudden Thoughts which occur'd to him in treating. At laſt he reſted on this, that the Queen ſhould engage to procure for the Elector the Dutchy and Electorate of *Bavaria*, excluſive of the Upper Palatinate, and the Rank in the Electoral College, which I had from the firſt peremptorily rejected; and that ſhe ſhould further promiſe to maintain him in the Poſſeſſion of the Dutchies and Towns of *Luxemburg* and *Namur*, and in the Poſſeſſion of *Charleroy* and *Nieuport*, until ſuch an Equivalent for theſe Countries and Places was given him as he ſhould be ſatisfied with. This Propoſition I poſitively refus'd to aſſent to, and told Monſieur *de Torcy* very plainly, that leaving theſe Towns and Places in the Elector's Poſſeſſion till he had ſuch an Equivalent as he ſhould be ſatisfied with, was really giving them abſolutely to him, which I knew her Majeſty neither could or would admit; further, that her Majeſty would enter into no Engagements to procure any thing for the Elector, or even to uſe her Offices in his Behalf; that the Towns and Places which this Prince is in Poſſeſſion of, would very probably be an Inducement to the Allies to give him ſomething in Lieu of them; that her Majeſty would not oppoſe his having *Sardinia*, which Equivalent had been propos'd firſt from hence. This I let him know was the Sum of all he was to expect from the Queen, and your Lordſhip will find the Minutes drawn accordingly.

Having on precedent Occaſions as well as this, perceiv'd, that Monſieur *de Torcy* affected to hint every Expreſſion in ſuch manner as to engage the Queen joyntly with the King his Maſter, I thought proper, very explicitly, and in the ſtrongeſt Terms I could uſe, to ſay that the Queen would enter readily into the common Guarantry for ſupporting that Settlement of *Europe*, which ſhould by the Peace be made; but that She would on no account whatſoever be concerned in any Stipulation to procure this Settlement; That it would be Advantage ſufficient for *France*, if the Conduct of Her Majeſty's Allies made it juſt and neceſſary for her to withdraw her ſelf out of the War before them; and that afterwards her good Offices would be employ'd as became the common Friend of all Parties.

I take occaſion frequently to repeat this to the *French* Miniſters; and I believe they will look upon it as the Rule which her Majeſty has laid down, and which they ſhall not be able to prevail on her to depart from.

On *Saturday* in the Evening I came to *Fontainebleau*, where an Apartment was provided for me, and my reception was particularly Civil. On *Sunday* at Nine in the Morning I had Audience of the King, to whom I preſented her Majeſty's Letter. He receiv'd me in a very Gracious manner, he talk'd a conſiderable time with me, and the Subſtance of what he ſaid, as near as I can remember, for his Speech was extremely quick, was, That he ever had the higheſt Eſteem for the Queen: That ſhe had proceeded in ſuch a manner as to turn that Eſteem into the ſincereſt Friendſhip; that he hop'd ſhe was ſatisfied he had done every thing on his part which might facilitate the Peace: That he was pleas'd to find we were ſo near concluding: that there were ſome who us'd all endeavours to obſtruct it, but that God be prais'd, they would not be long able to do ſo: That God would hinder them from giving the Law which they pretended to: That the ſucceſs of his Arms ſhould make no Alteration in him: And that he would make good all he had offer'd.

Fontainbleau, Aug. 22d. *N. S.* 1712.

AFTER I had had my Audience Yeſterday of the KING, I return'd with Monſieur *de TORCY*, to view the Minutes we had taken, and the Draught of the Convention for the Suſpenſion of Arms, which we Sign'd in the Evening: Your Lordſhip will obſerve, that it is dated on *Friday* laſt, at which time the firſt Brouillon was prepar'd, and I thought that every Day which the Commencement of it was put backward, was ſome degree of Advantage to us; the Term is of four Months, which Monſieur *de Torcy* deſir'd, as more likely to have its Effect on the *Dutch* than a ſhorter Term, which might have ſuffer'd them to entertain Hopes ſtill of breaking our Meaſures, and bringing the Queen into Action again. I did not much weigh the force of this Argument, tho' I think it has ſomewhat determin'd me to agree to four Months, according to the

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Latitude left in my Inſtructions, was firſt what I remember'd to have been the Senſe of ſeveral Merchants whom I ſpoke with before I left *London*, who all ſeem'd deſirous of the longeſt Term, and thought that two Months would not encourage many People to venture upon ſome Voyages. Secondly, that a Term of two Months would as effectually cut off all proſpect of Acting by Land this Campaign, as a Term of four, and that therefore the Sea-Service would be chiefly affected by this Suſpenſion, where we have more to apprehend than to hope.

Monſieur *de Torcy* had inſerted in the Draught theſe Words,—— *les Mers qui entourent les Iſles Britanniques*, and cited the Teaty of *Breda* as a Precedent. I ſhew'd him, that before that Treaty, the expreſſion had always run *Maribus Britannicis*, particularly in the Treaty with *Cromwell*; and that the Error committed in that of *Breda*, had been rectified in that of *Ryſwick*. He inſiſted more than I expected on retaining his Words, and entred a little into the diſpute of Dominion. This made me the more tenacious, and your Lordſhip will find theſe Words, *les Mers qui entourent les Iſles* raz'd out; ſo that it ſtands now as it ought to do.

The Suſpenſion being now Sign'd, I ſhall, purſuant to my Inſtructions, diſpatch Her Majeſty's Orders to Sir *John Jennings*, to Mr. *Chetwynd*, and to the Officer who Commands the Queen's Troops in *Catalonia*.

Monſieur *de Torcy* is likewiſe very earneſt that the Duke of *Argyll* be Diſpatched, judging his Preſence neceſſary upon this new turn of Affairs for the Common Intereſt; I cannot help thinking it is ſo, particularly for Her Majeſty's Service.

Juſt now the Duke of *Orleans* told me, that the King had this Morning, at his *Levee*, declar'd, that the Suſpenſion of Arms was Sign'd; and Monſieur de *Torcy* informs me, that they intend to Morrow to Publiſh it at *Paris*. I will therefore looſe no time in diſpatching this Courier, as ſoon as I receive, (which I expect every Moment) the Copy of the Act of Renunciation, which has been prepar'd in *Spain*, and wherein the *Spaniards* ſeem to have neglected no Expreſſion which could add to the Strength, and no Form which could add to the Validity of it; *Philip*'s conſent to the Cancelling the Entry of 1700, mention'd in the Convention for the Suſpenſion of Arms in *Flanders*, and the Inſerting the Subſtitution of the Duke of *Savoy*, will be the Subjects of additional Clauſes. I ſhall be extremely concern'd, if the Queen does not receive this Account before the News comes any other way; but I loſe no time, and I hope the Meſſenger will loſe none.

The fifty Paſſes In Blank I have not yet receiv'd, but hope to have them time enough to accompany this Diſpatch.

The *Chevalier* has fix'd his Departure on the firſt of next Month *N. S.* They propoſe that he ſhall retire to *Bar*; and they intend to write to the Duke of *Lorrain*, to ask of the Emperor, and other Princes, a Security for his Perſon during his reſidence in that Place.

I muſt not conclude this Letter without asking your Lordſhip's Pardon for a piece of falſe News, which I ſent you from *Calais*, concerning an Action at *Pont a Rache*; the Story was told us with ſo many Circumſtances, that I made no doubt of the Truth of it, eſpecially when the Mayor of the Place quoted a Letter which he ſaid he receiv'd from his Son-in-law, who was at that time in the Army.

I encloſe the Convention for the Armiſtice in the *Netherlands*, which your Lordſhip will have occaſion for, and which, with the Act of Renunciation, and the Minutes tranſmitted to you, will afford ſufficient Materials for my Lord *Lexington*'s Inſtructions.

As I intend to leave this Place on *Wedneſday* at furtheſt, it will be proper to loſe no time in diſpatching a Letter of Credence to Mr. *Prior*, to whom your Lordſhip will likewiſe pleaſe, as ſoon as poſſible, to ſend the Queen's Ratfication.

This Letter is already ſwol'n to ſo great a Bulk, that I believe your Lordſhip is very willing I ſhould refer to another Opportunity ſuch further Accounts as I have to give of my Proceedings. I am, *My LORD*,

Your Lordſhip's moſt Humble and Obedient Servant, Bolingbroke.

SInce I clos'd my Letter, Monſieur de *Torcy* ſent we word, a Courier is arriv'd from *Turin* in his way to *England*, and deſir'd to know if I would have him go on, which I did not think proper to hinder. I ſuppoſe this Courier is diſpatch'd to the Count de *Maffei*, upon the Impatience which the Duke of *Savoy* is under, upon not hearing from hence, according to what he was made to expect by his Miniſter's Letters, which went by way of *Holland* ſome time ago.

I am only to obſerve to your Lordſhip, that the ſooner you take an opportunity of ſpeaking to the Count de *Maffei*, the better.

Beſides the Papers mention'd in my Letter, I ſend your Lordſhip a Form of Publication of the Suſpenſion, and a Memoire which I receiv'd from M. de *Torcy* concerning ſome Articles of Trade: General *Stanhope* is arriv'd here in his way to *Britain*.

BOLINGBROKE.

N° 38.

Letter from the French *King to the Queen of* Great-Britain.

Verſailles 28*th* October 1712.

Madam, My Siſter,

YOU Having acquainted Me, that You have an intire Confidence in Mr *Prior*, I thought he would be more capable than any Body, to inform you of the new Proofs that I am ready to give You, of the particular Regard I have for You, as alſo of my Deſire to terminate without any Delay, in Concert with You, the Negotiations of Peace. He goes into *England* to give you an Account of the further Advances that I am willing to make, to facilitate an intire Concluſion of this Work. I wou'd have you therefore Regard what I do in this deciſive Conjuncture, as new and certain Marks of my Friendſhip for You; and do Me that Pleaſure to acknowledge them, by Intereſting Your ſelf with Me in Favour of the Elector of *Bavaria*. I do not remind you of the Ties of Blood which unite Him as well to You as to Me, nor of any other Reaſons which ought to render you ſenſible of his Condition: *It is* ſufficient for me that you are ſenſible of the Concern that I have in what Regards him; and I am perſuaded that this will be the principal Motive, that will preſs you to Act in his Favour. I expect with Impatience the Return of Mr *Prior*, whoſe Conduct is very agreeable to Me: And as he will aſſure you of what my Sentiments are, I will only add that he cannot ſufficiently expreſs the perfect Eſteem and ſincere Friendſhip I have for You.

I am,

Madam, My Siſter,

Your Good Brother,

LOUIS.

N° 39.

The Queen's Letter to the French *King.*

Windſor, November 14*th*, 1712.

Monſieur, My Brother,

I Have receiv'd with a very ſincere Pleaſure the agreeable Letter which Mr *Prior* brought Me from You. As your Conſummate Wiſdom hath taken the Reſolution that is moſt proper to fix the Terms of the Peace, You'll be perſuaded, that I will not on my Part loſe a Moment to haſten the Concluſion of it. I aſſure You, that the great Facility that you are willing to lend towards it out of a Regard to Me, ſhall be made no other Uſe of, than to be employ'd without any delay to Re-eſtabliſh the publick Tranquillity, according to the Wiſhes of Us both. By the Orders that I give to My Miniſters at *Utrecht*, it will appear that I do all that is in My Power at the preſent Conjuncture, in Favour of a Prince whoſe Intereſt is ſupported by your Generoſity.

I don't at all doubt, but he himſelf is fully convinc'd of it, and that all the World agrees in it; I again Repeat, *Monſieur*, my Brother, that the Conſideration of your Friendſhip will be a very prevailing Motive to engage me a-new in his Intereſt, and in the Intereſt of his Family, as Occaſion ſhall offer, for the Future: As to the reſt, I ſend back Mr *Prior* to *Verſailles*, who in continuing to conduct himſelf in the Manner that ſhall be entirely agreeable to You, does no more than Execute to a Tittle the Orders which I have given him: and amongſt all the Proofs of his Duty and Zeal for my Service, I expect in a very particular Manner that he ſhould take all poſſible Occaſions to repeat to you the Eſteem and perfect Regard that I have for You, and my earneſt Deſire to live with You in a ſincere and perpetual Friendſhip.

N° 40.

26th September 1712.

Lord Bolingbroke *to Lords Plenipotentiaries.*

Declaration to be made by the French Plenipotentiaries.

EXTRACT.

THE Plenipotentiaries of the King at *Utrecht* ſhall Declare to thoſe of *Great-Britain*, That his Majeſty Conſents to treat of the Peace according to the Plan propos'd by Her Britannick Majeſty in her laſt Speech to her Parliament; but they ſhall at the ſame time alſo declare, That the *Dutch* having refus'd to conform to the Sentiments of this Princeſs, rejected the Suſpenſion of Arms, and given Occaſion to the Change of Affairs, it is but Juſtice that his Majeſty receive Reſtitution of the Expences he has been oblig'd to be at during the Courſe of this Campaign: His Majeſty therefore agrees that the Plan ſent by him to *London* laſt *April* be exactly follow'd. And this is the preciſe Declaration which his Majeſty's Plenipotentiaries ſhall make to thoſe of the Queen of *Great-Britain*.

But upon the foremention'd Grounds the King orders his Plenipotentiaries not to Sign the Peace, but upon Condition that the City of *Tournay* be reſtor'd to him, beſides the Reſtitution of the other Places he Demands, and which he has reaſon to believe Her Britannick Majeſty intended to Comprehend in Her Speech.

The King will continue to uſe all imaginable Care in preſſing, as ſoon as poſſible, the Concluſion of the Peace between his Majeſty and the King of *Spain* on one Side, and the Queen of *Great-Britain*, King of *Portugal*, and the Duke of *Savoy* on the other, leaving to the *Dutch* the Liberty of doing what they ſhall judge moſt proper.

N° 41.

22d March 17$\frac{14}{15}$.

Conſul Pouldon's *Letter to Mr* Methuen.

SInce the Ceſſation of Arms, the Britiſh Subjects in the *Canaries* have been under continual Vexations. By an Order from the Biſhop of *Gironda* in the King's Name, the Britiſh Ships paid only the Ordinary Cuſtoms, without any other Demands; But upon the preſent General's Arrival he explain'd that Order, ſo as to exclude all Goods that were not, as they ſaid, properly *Engliſh* Manufactures, tho' imported by *Engliſh* Men in *Engliſh* Bottoms, whereby of late his Majeſty's Subjects have paid above 3000 *l.*

N° 42.

6th of May 1715.

Mr Hern's *Letter to Mr Secretary* Stanhope.

BY an Order from Court publiſhed by the Governour of *Valencia*, all Strangers muſt pay in Place of *Alcavalos* and *Miltones*, a Duty they call *Quartals*, which amounts to 14 *l. per Cent.* and this to be Computed from the beginning of the Year 1714, for the Goods they had paid Cuſtoms for at the Rate of 15 *l. per Cent.* ſo that in all they pay 29 *l. per Cent.* on all ſorts of Merchandize entred; which beſides the Exorbitances of the Duty, has this great Inconveniency with it, that the Factors had ſtated their Accounts with the Merchants at 15 *l. per Cent.* They are alſo ex-

poſ'd

pos'd to the Quartering of Soldiers at ſo much a day, if they refuſe, till this Duty is paid: Such Demands were never known to be made before of the Britiſh Subjects; the Duties they paid in the Reign of King *Charles* II. not exceeding 7 *per Cent.*

N° 43.

12*th* May 1715.

Sir Martin Weſtcomb's *and* Conſul Ruſſel's *Letter to Mr* Methuen.

THE not allowing the Cuſtoms in the Form as in King *Charles* the 2*d*'s. time, has put a ſtop to Trade, and muſt neceſſarily ruin all Commerce: *Don Juan Antonio Zavalos* having publiſhed an Order, that all the *Gratias* in Favour of the Merchants which they had ever enjoy'd, ſhould ceaſe: And that for the Future all Goods imported and exported ſhall pay to the full according to the Valuation in the Book of Rates, which on ſome Goods is 25 *l. per Cent.* and on others 28 *l.*

N° 44.

Mr Methuen's *Memorial to the King of* Spain, *April* 22*d. N. S.* 1715.

THE Underwritten Miniſter of the King of *Great Britain* moſt humbly repreſents to his Catholick Majeſty, that he finds himſelf obliged by the Commands and Inſtructions he has received from the King His Maſter, to Demand in his Majeſty's Name,

That all the Privileges and Conceſſions the Kings of *Spain* have ever Granted to the Britiſh Merchants by their Royal Schedulas or Ordinances, and by the Articles of the Treaty of Peace and Friendſhip made at *Madrid* in the Year 1667, may be fully confirmed, as they are in effect by the eighth Article of the Treaty of Peace, and Friendſhip concluded at *Utrecht*, the 13th day of *July*, N. S. 1713, between the Crowns of *Great Britain* and *Spain*. That the Trade of the Britiſh Merchants in all the Ports of the Kingdom of *Spain*, may be eſtabliſhed and remain upon the ſame Foot as it ſtood in the time of King *Charles* the Second, and before the Declaration of the laſt War.

That the Britiſh Merchants may not for the preſent or future be obliged to Pay any other Duties and Cuſtoms on the Goods they import into the ſeveral Ports of this Kingdom, or export out of them, than thoſe which they paid on the ſame Goods in the Reign of King *Charles* the Second.

That the ſame Method as was then practiſed in the Manner of Collecting thoſe Cuſtoms, may be now and for the time to come obſerved, and that in the Payment of them, the Britiſh Merchants may be Allowed the ſame Gratias, Favours, Abatements, and Deductions, as were allow'd them at any time during the Reign of King *Charles* the Second, by the Farmers of the Cuſtoms or the Adminiſtrators of the King. And his Britannick Majeſty hopes that his Catholick Majeſty will make no Difficulty in granting to His Subjects the ſame Liberties, Indulgences, and Favours in their Trade to His Dominions, as they formerly enjoyed; ſince His Majeſty deſires nothing herein that can be any Detriment or Prejudice to His Catholick Majeſty or the Intereſt of his own Subjects; but on the contrary, what has been allowed by the Kings His Predeceſſors, and practiſed as well by their Adminiſtrators of the Cuſtoms, as by the Farmers of them.

That

That all the Articles contained in the Treaty of Navigation and Commerce concluded at *Utrecht*, between the Crowns of *Great Britain* and *Spain*, on the 9th day of *December* N. S. 1713, ſo far as they are detrimental and derogatory to the Priviledges and Conceſſions of the Royal Schedulas and Ordinances, granted at any time by the Kings of *Spain* to the Britiſh Merchants, and to the Articles of the Treaty at *Madrid*, in the Year 1667, may be declared null and void.

And particularly the three ſeparate Articles called *the Three Explanatory Articles*, contained only in the Ratification of the ſaid Treaty of Navigation and Commerce, concluded at *Utrecht*, as having been inſerted and obtained in a very extraordinary manner, without having been firſt ſettled or ſigned by any of the Miniſters of both Crowns, that were impowered to conclude the ſaid Treaty.

That His Catholick Majeſty will be pleaſed to Grant to the Britiſh Merchants, that they may have the Privilege of having a Judge Conſervator in all the Parts of *Spain*, where the Judges Conſervators have been formerly allow'd, till the Death of King *Charles* the Second: And that the ſaid Judges Conſervators may be Veſted with the ſame Power and Authority for the defenſe and Protection of His Britannick Majeſtie's Subjects, and their Exemptions in Trade, as was formerly granted them, and conſtantly enjoyed by Virtue of the Royal Schedulas or Ordinances Dated the 19th day of *March*, the 26th of *June*, and 9th of *November*, in the Year 1645, and confirmed by the Ninth Article of the Treaty made at *Madrid* in the Year 1667.

As to the firſt Point contained in this Memorial, which is; That the Trade of the Britiſh Merchants in *Spain* may be eſtabliſhed upon the ſame Foot as it was in the time of King *Charles* the Second, the Miniſter of the King of *Great Britain* hopes it will appear to his Catholick Majeſty to be founded on Juſtice and Reaſon, when His Majeſty will be pleaſed to conſider,

That the French Nation, which drives a conſiderable Trade to this Kingdom, has always Traded, and does now continue to do ſo wholly upon the ſame Foot; there being no other Treaties of Commerce between the Crowns of *Spain* and *France*, ſubſiſting, but thoſe which have been made either before the time of King *Charles* the Second, or during the Reign of that Prince.

As alſo in the 17th Article of the Treaty of Peace and Commerce concluded at *Utrecht* the 26th of *June* 1714, between His Catholick Majeſty and the States General, it is ſtipulated in Favour of the States, That their Subjects ſhall enjoy the ſame Privileges, Franchiſes, and Exemptions in their Navigation and Commerce, without any Exception or Reſerve, as they did enjoy before the late War.

From whence it follows, that the King of *Great Britain*'s Subjects having by all the Treaties between both Crowns an undoubted Right to all the Privileges, Liberties, and Immunities in Trade, which have been, or may be granted to any other Nation whatſoever, they cannot be with Juſtice refuſed the ſame Privileges and Exemptions in their Trade, as are granted or continued to other Nations, and were enjoyed by them before the late War, during the Reign of King *Charles* the Second. As to the laſt Point, which relates to the Judges Conſervators, beſides the juſt Right the Subjects of the King of *Great Britain* have to that Privilege, the ſame which is now Demanded for them, being already granted in expreſs Words to thoſe of the States General, by the 29th Article of the above-mentioned Treaty, between His Catholick Majeſty and the States; The Miniſter of the King of *Great Britain* hopes His Majeſty will make no Difficulty in granting it alſo to the Subjects of the King His Maſter.

And it is certain that if theſe Judges Conſervators had been eſtabliſhed, as they ſhould have been, immediately after the Ceſſation of Arms and Concluſion of the Peace, it would have hinder'd moſt of the Diſputes which have happen'd between the King's Officers, and the Subjects of the King of *Great Britain*, ſince thoſe Differences might have been ended in the Places where they begun; which would have prevented the many Oppreſſions the King of *Great Britain's* Subjects have laboured under, the great Number of Law-Suits now depending before the Council of War at *Madrid*, and the entire Ruin of ſeveral poor People and their Families for ever, ſome of which have been here near two Years ſoliciting for Juſtice, without having been yet able to obtain any Deciſion of their Cauſes.

Given at *Madrid* the 22d day of *April* N. S. 1715.

N° 45.

Inſtructions to Mitford Crow *Eſq; Given at Our Court at St.* James's, *March 7th.* 1705, *in the third Year of Our Reign.*

EXTRACT.

ANNE R.

BEing informed that the People of *Catalonia* are inclined to caſt off the Yoke impoſed upon them by the *French*, and by withdrawing themſelves from the Power of the Duke of *Anjou*, to return to the Obedience of the Houſe of *Auſtria*: We deſiring to maintain and improve that good Diſpoſition in them, and to induce them to put the ſame ſpeedily in Execution; and repoſing ſpecial Confidence in Your Fidelity and Prudence, as alſo for the Knowledge you have of thoſe Countries and People, have made choice of You to carry on ſo great a Work for the Advantage of Our Service, and the Good of the Common Cauſe, as is the making the Treaty with the *Catalans*, or any other People of *Spain*, to the Purpoſes aforeſaid. You are therefore upon Receipt of theſe our Inſtructions, and other Your Diſpatches, to repair as ſoon as conveniently you can, to *Genoa*, *Leghorne*, or ſuch other Neuter Country or Place as You ſhall judge moſt proper for carrying on Our Service in this Particular: And being arrived there, You are to treat with the ſaid *Catalans*, or any other People of *Spain*, about their coming into the Intereſt of *Charles* 3d. King of *Spain*, and joyning with Us, and Our Allies. To which Purpoſe, You ſhall inform your ſelf what Number of Ships and Land Forces, what Quantity of Arms and Ammunition they may expect; and likewiſe what Number of Land Forces may be thought requiſite for ſupporting them, and for facilitating this Deſign; and on the other Side, what Force of Horſe and Foot they will be obliged to raiſe, and in what Time: What Proviſions of all Sorts they can Supply for Our Fleet and Army; and at what Time they will expect the Aſſiſtance of Our Troops, and where the Forces ſhall meet, and in what Manner they may beſt cooperate. You ſhall, as often as conveniently You can, give an Account to the Earl of *Gallway* of the Progreſs you make in this Negotiation, in Order to the better concerting the Operations, and the Manner of rendring what is done on the *Portugal* Side moſt beneficial towards carrying on and promoting what ſhall be undertaken by the *Catalans*, as well as for rendring any Undertakings on the Side of *Catalonia* by way of Diverſion or otherwiſe, moſt advantageous for promoting ſuch Deſigns as may be undertaken in *Portugal*, or any Part of the Coaſt of *Spain*. And it is chiefly to be conſidered in what place and Manner Our Fleet and Land-Men on Board, and that accompany it, may be employed to the beſt Advantage.

You are not only to correſpond with the Earl of *Gallway*, but alſo with the Prince of *Heſſe*, and with the Admiral of our Fleet, and Commander in Chief of our Forces, when, and as often as you ſhall ſee Occaſion for the Good of our Service; and likewiſe with *Richard Hill* Eſq; or other Our Envoy Extraordinary with the Duke of *Savoy*. And in Caſe of any emergent Occaſion, You may ſend an Expreſs to Our ſaid Envoy, deſiring him to ſend to you without Delay, ſuch of Our Frigates now in the *Mediterranean* under his Direction, as can moſt conveniently be had, and to obey ſuch Orders as You ſhall give: Whereupon You are hereby empowered to diſpatch ſuch Frigat to *Lisbon*, to Our Fleet or *Gibraltar*, as Our Service may require for the better promoting this Undertaking.

You ſhall give the *Catalans*, or other *Spaniards*, Aſſurances of Our Utmoſt Endeavours to procure the Eſtabliſhment of all ſuch Rights and Immunities as they have formerly enjoyed under the Houſe of *Auſtria*, and the Confirmation of ſuch Titles as may have been conferr'd on any of them by the Duke of *Anjou*; and that We have for their further Satisfaction, ſent to King *Charles* 3*d.* for Powers for confirming the ſame to them, which We do not doubt the Succeſs of: And that We are willing, if they inſiſt on it, to give Our Guaranty that it ſhall be done.

You may give them an Account of the Forces We intend to employ on the Coaſt of *Spain* this Year; which are intended to conſiſt of 64 Ships of the Line, with Frigats, Tenders, and Tranſports, with 8000 *Engliſh* and *Dutch* Land-Men, to be employed as ſhall be judged beſt for the Service: But you are to make Uſe of this upon Occaſion, to excite them to make the greater Proviſion on their Part; not acquainting them with the whole Strength at the firſt, but raiſing it by Degrees, ſo as to get the better Terms.

In Caſe any of the Nobility ſhall inſiſt to have any Sum of Money to be advanced to them, upon Condition of Services to be performed by them, You are to give an Account thereof to Us; and in the mean Time You are to aſſure them that you do not doubt, but you ſhall be empowered to remit to them, whatſoever is neceſſary and reaſonable for their Support as ſoon as they are actually in the Field. But you are always to remember to put a juſt Value on the Extraordinary Expence Her Majeſty is at upon Account of this Expedition for the Common Benefit.

N° 46.

Mr. Crow's *Commiſſion to treat with the* Catalans.

ANNE *R.*

ANNE, by the Grace of God, Queen of *Great Britain*, *France* and *Ireland*, Defender of the Faith, *&c.* To all to whom theſe Preſents ſhall come Greeting. Whereas it highly concerns Us, as well as our Allies, that the *Spaniards* Shaking off the heavy Yoke of the Dominion of *France*, ſhould return to the Obedience of the moſt Auguſt Houſe of *Auſtria*, which that Nation has, for ſeveral Ages, found to be mild, and being informed that the moſt Noble Principality of *Catalonia* are deſirous ſo to do; in Order to promote ſo good a Deſign, and even with our Succours of Money, and the Help of our Arms, to bring it as ſoon as poſſible to an happy End: We think fit to enter into a Treaty with the ſaid Principality, or any other Province of *Spain*, upon condition they acknowledge and receive *Charles* the 3d, as lawful King of *Spain*, and utterly abdicate the Houſe of *Bourbon*, and that to this End they join their Strength and Troops with Ours to attack the Duke of *Anjou*, and his Adherents. Know ye therefore, that We have fully empower'd Our Truſty and Well-beloved *Mitford Crowe* Eſq; (who is acquainted with thoſe Countries) to make an Alliance between Us, and the ſaid Principality, or any other Province of *Spain*; and have ordered him, as We by virtue of theſe Preſents empower and order him, to confer, agree upon, and do and conclude every thing with the Deputies of the ſaid Principality, or any other Province, alſo fully empowered, that may conduce to the finiſhing ſo good a Work: And We do promiſe, that whatever he ſhall tranſact and conclude in our Name, in the ſaid Treaty of Alliance between Us and the ſaid Principality, or any other Province, We will accept and ratify the ſame. In witneſs whereof We have Signed theſe Preſents, and cauſed Our Seal to be affixed to the ſame. Given at Our Court at St *James's* the 7th of *March* 1705, in the third Year of Our Reign.

N° 47.

Mr Crow's *Credentials to the* Catalans *&c.*

ANNE, by the Grace of God, Queen of *Great Britain*, *France*, and *Ireland*, Defender of the Faith, &c. To the moſt Illuſtrious, moſt Noble and moſt Excellent Lords, the Dukes, Marqueſſes, Counts, Barons, Nobles, Gentlemen, Magiſtrates of Towns, and Governours of Places, or any their Officers both Military and Civil, of the Principality of *Catalonia*, or any others whoſoever of any Province in *Spain*, to whom theſe Preſents ſhall come Greeting. Whereas We have taken up Arms to vindicate the Liberties of *Europe* againſt the exorbitant Power of *France*, and to this end We make Our Efforts to prevent the Neighbouring Nations from becoming its Slaves; and being alſo informed that you have always had a fervent Zeal for Liberty, and that you ſeem to diſdain the Yoke of the Dominion of *France* which is laid on your Necks, and that You deſign, as becomes brave Men, to Shake off the ſame: We have therefore thought fit to ſend Our Truſty and Well-beloved *Mitford Crowe* Eſq; towards you, long ſince known to ſome amongſt you, not only to know your Thoughts upon this Subject, and to confirm You in ſo brave a Deſign, but we have alſo fully empower'd him to treat with You, and to do every thing that may conduce to the finiſhing this good Work. We

hope

hope therefore that his coming will be acceptable unto you, and We desire you for the same Reason, that you will hear him favourably, and give an intire Faith to every thing he shall tell you in our Name. Given at Our Palace at St *James*'s the 7th of *March* 1705, in the third Year of Our Reign.

N° 48.

St. James *May 1st.* 1715.

Instructions to the Earl of Peterborough *and Sir* Cloudesly Shovel.

EXTRACT.

WHereas nothing can be of more Importance to the common Cause, or prove more conducing to the Establishment of King *Charles* III. on the Throne of *Spain*, than the Possession of *Barcelona* and *Cadiz*: We therefore command you to concur to the utmost of your Power, with all such Measures as may be propos'd to you, for the reduction of those important Places. But since there is reason to believe, that the Attempts on *Cadiz* will be more practicable in your return, you are therefore without loss of Time to proceed to the Coast of *Catalonia*, leaving the Execution of the Attempt on *Cadiz* to a more proper Season when they less expect you, and when you may probably have some Assistance from the Army in *Portugal*, and the Garrison of *Gibraltar*. And being arriv'd on the Coast of *Catalonia*, We require and command you to do the best you can to induce the *Catalans* to cooperate with you for the reduction of *Spain*, to the Obedience of King *Charles* III. And you are to encourage those People whom we think well affected to the House of *Austria*, to shake off the Yoke of *France*: And to animate them to prosecute their Liberty with more Vigour, you are hereby empower'd to assure them, that they shall not want our Support; and you may promise them in our Name, that we will secure them a Confirmation of their Rights and Liberties, from the King of *Spain*, that they may be settled on a lasting Foundation to them and their Posterities; and you must use your best Endeavours, that the Declarations to be issued by His Catholick Majesty be suitable and agreeing with those published by our Order. But in case you find no suitable returns from the *Catalans* and *Spainards* to our kind Offers, and that they are not to be prevailed on by fair Means to espouse the Interests of the House of *Austria*, then you are to take proper Measures for annoying the Towns on the Coast of *Spain*, and reduce them by Force: In this, and all other Services governing your selves as before directed by Council of War.

You are to correspond with *Mitford Crowe* Esq; who is now at *Genoa* by Our Command, in order to send Advices of the Dispositions of the *Catalans*.

N° 49.

Earl of Peterborough's *Manifesto* in *Spain.*

To all the Loyal Subjects of the Monarchy of Spain, *of what Rank or Quality soever, Church-men or Lay-men, within the Dominions of the Crown of* Spain, *Greeting.*

OUR Sovereign Lady, *Anne*, by the Grace of God, Queen of *Great-Britain*, *France* and *Ireland*, &c. having thought fit to constitute and nominate us, General of the Troops which Her Majesty has join'd with those of the Lords the States General, and which are employed to maintain the just Right of the most August House of *Austria* to the Monarchy of *Spain*, and to assist their other Allies: We have judg'd it necessary and convenient to declare, before we proceed to open Force, that we are not come into these parts to take Possession of any Place in the Name of Her *Britannick Majesty*, or of the Lords the States General, or to bring into these Countries the Ordinary Devastations and usual Calamities of War; but to defend and protect the good

good and Loyal Subjects of the ſaid Monarchy, and to free them from the inſupportable Yoke of a Government of Foreigners, and from the Slavery to which they have been reduced and ſold to *France*, by ill-deſigning Perſons. The Intention therefore of Her ſaid Majeſty, and of the Lords the States General, being to maintain the juſt Right of the Houſe of *Auſtria*, and the Liberty and Priviledges of the Subjects of his Catholic Majeſty: We declare and promiſe by theſe Preſents, that all Loyal and true *Spaniards*, who ſhall not oppoſe our Forces, but give Demonſtrations of their Loyal and due Obedience to their King *Charles* the 3*d*. ſhall be protected and maintain'd in their Religion, Perſons, Eſtates, Offices and Priviledges, without any Moleſtation. But if (contrary to our Hopes) the Inhabitants and People of theſe Countries ſhall not concur with us in the Execution of the good Intentions of her ſaid Majeſty and of the Lords the States General: We take God to Witneſs, that they wilfully draw upon themſelves all the Hoſtilities which may be committed by the Forces under our Command; and that the Blame will lye at the Door of ſuch *Spaniards*, who when ſo fair an Opportunity is offered them, to give Proofs of their Loyalty, and follow the Motives of their Duty and Intereſt, ſhall let ſlip ſo favourable a Conjuncture.

N° 50.

Extract of Lord Lexington's *Inſtruction when he went Ambaſſador to* Spain. *Dated at* Windſor *the 1ſt. day of* Sept. 1712.

AS ſoon as you receive theſe our Inſtructions and your other Diſpatches, You ſhall repair with all diligence to *Madrid*, or where-ever elſe you are informed the Court is. Upon your Arrival you ſhall immediately give notice thereof to the Secretary of State, and acquaint him that you are come thither upon the Aſſurances we have had from the moſt Chriſtian King, that you ſhall be kindly treated, and that you ſhall be permitted to be preſent in Perſon at the Solemnity of the Renunciation that is to made to the Crown of *France*. You ſhall at the ſame time let him know that we have fully Authoriz'd you, to take upon you the Character of our Ambaſſador Extraordinary, and to acknowledge the King of *Spain* and the *Indies* as ſoon as he ſhall have made his Renunciation in the Form agreed on, and ſhall acknowledge the Succeſſion to the Imperial Crown of theſe Realms, in the Proteſtant Line in the Houſe of *Hanover*, in the ſame manner the *French* King has done, and ſhall have ſignified to You his Reſolutions to execute whatever has been Stipulated by the Moſt Chriſtian King in his Behalf.

You are to repreſent to his Majeſty, or his Miniſters, that it is no leſs for his Intereſt than for Our Honour, that a General Amneſty be granted without Exception to all *Spaniards*, who have adhered to the Houſe of *Auſtria*, and in a particular Manner to the *Catalans*, with regard to their Perſons, Eſtates, Dignities, and Priviledges.

N° 51

Extract of the Demands made by Lord Lexington *to the Court of* Madrid, *on the Part of the Queen of* Great Britain, *October* 1712.

ART. 11th, The Queen of *Great Britain* prays his Majeſty to grant a General Amneſty without Exception to all *Spaniards*, who have adhered to the Houſe of *Auſtria*, and particularly the *Catalans*, the Queen thinking it as neceſſary to the Intereſts of his Catholick Majeſty, as for her Honour.

N° 52. *Lord* Dartmouth *to the Marquis de* Monteleone, Jan. 14*th*, 17$\frac{12}{13}$.

SIR,

THE QUEEN having underſtood by the Duke of *Shrewsbury*'s laſt Letters, that the Catholick King did not intend that the Amneſty he granted to the *Catalans*, ſhould extend to the Preſervation of their Priviledges; I cannot expreſs to you, Sir, how much Surprize Her Majeſty ſhow'd upon it; for to ſpeak plainly to you, 'twas never thought His Catholick Majeſty deſign'd to take away the Lives of the Inhabitants of a whole Province, ſo there was no Occaſion to provide for it by a Treaty. The ſole Thing then intended in ſtipulating a General Amneſty, could be no other, than that this Province ſhould be permitted to enjoy the ſame Priviledges, and be upon the ſame Foot in every Reſpect, as it was at the Death of the late King of *Spain*, *Charles* the IId. The Queen, Sir, has order'd me to repreſent this to your Excellency in a moſt earneſt manner, as a Matter in which Her Majeſty's Honour is very much concern'd, That She looks upon it as an Article already ſtipulated in all its Forms, and which She thinks Herſelf oblig'd by Motives of Conſcience not to depart from.

N°. 53. *Tranſlation of Lord* Lexington's *Letter to Mr.* Orry, Aug. 16*th*, 1713.

I Set out to Morrow for the Eſcurial, to enjoy the only Moment of Leiſure I have had ſince my Arrival at *Madrid*. I beg I may have an Anſwer to my laſt Memorial touching *St. Sacrament*, at my Return to ſend it away by the next Poſt: Alſo I entreat you, Sir, to conſider well your own Intereſts, if you will not do it in Regard to the Inſtances of the Queen my Miſtreſs; your Suſpenſion of Arms on that Side, which ends in leſs than two Months; the Neceſſity you are under to withdraw your Troops from *Andalouſia*, to put an End to the Rebellion of the *Catalans*; and if it would not for theſe Reaſons be very much for your Convenience, to make Peace with *Portugal* in the preſent Conjuncture. I ask you a Thouſand Pardons for concerning my ſelf in your Affairs.

N°. 54. *Extract of the King of* Spain's *Anſwer to my Lord* Lexington's *Memorial, the* 15*th of* Dec. 1712.

AS to the Amneſty which is propos'd and deſir'd in the Sixth Point for the *Catalans*, tho' his Majeſty might refuſe it, as well on Account of the little thoſe People have deſerv'd from him, as of the Condition to which they are now reduc'd in the little Ground they are poſſeſs'd of in that Principality, being without the Aſſiſtance of Her Majeſty of *Great-Britain*'s Troops, and thoſe of *Portugal*, which are withdrawn, and his Majeſty's Troops and thoſe of the King his Grandfather, being ready to enter in this very Month of *December*, by three ſeveral Ways into their Country; notwithſtanding all theſe Reaſons, his Majeſty, more out of Complaiſance to Her Britiſh Majeſty, and to give Her Satisfaction, than for any of the Arguments that have been offer'd, is willing to grant his Pardon to all the *Catalans*, who acknowledging the King's Clemency, and repenting them of their Error, ſhall ſubmit to His Dominion and Vaſſalage, within the Time that ſhall be prefix'd for that Purpoſe.

N°. 55. *Extract of the Convention for evacuating* Catalonia, *&c.* March 14*th*, 1713.

Art. 1°. ALL the Troops of the Emperour and of the Allies ſhall be ſent away out of the Principality of *Catalonia*, and the Iſlands of *Majorca* and *Ivica*.

8°. Moreover a General Amneſty and a perpetual Oblivion, *&c.* ſhall be granted, and ſhall be publiſh'd immediately, in due form, from the time that the Evacuation begins, for all the Subjects and Inhabitants of *Catalonia*, and of the ſaid Iſlands, as well Secular as Eccleſiaſtical.

9°. But whereas the Plenipotentiaries of his Imperial Majeſty, have ſtill inſiſted upon the Enjoyment of the Privileges of the *Catalans*, and of the Subjects and Inhabitants of *Majorca* and *Ivica*, before the Evacuation, but on the Part of *France*, and of her Allies, whatever relates to this Affair, is referr'd to the concluſion of the future Peace, Her Royal Majeſty of *Great-Britain*, has again declared, that ſhe will interpoſe her good Offices in the moſt effectual manner, whenever there ſhall be occaſion, that for the future, the Inhabitants of *Catalonia*, *Majorca* and *Ivica*, may enjoy their Privileges, in which the ſaid Imperial Plenipotentiary Miniſters did at laſt acquieſce, ſince the moſt Chriſtian King himſelf had ordered it to be declared by his Plenipotentiary Miniſters that he wou'd alſo joyn his Endeavours for that Purpoſe.

N°. 56. *Extract of a Letter from Lord* Lexington *to the Lord* Dartmouth, Auguſt 7*th*, 1713.

MOnſieur *Orry* ſpoke to me from the King laſt week, ſaying that His Majeſty deſired, that the Queen would be pleas'd to lend him ſix or more Ships to block up *Barcelona*, and this Morning the Princeſs preſſed me extremely upon the ſame Subject, I anſwer'd to both, that I could ſay nothing to it, but that I was afraid it would meet with this difficulty, that Her Majeſty would be very unwilling to lend Her Ships to exterminate a People, that had taken up Arms in a great Meaſure at the Inſtigation of her Miniſters, and that ſhe would think ſhe had done enough to gratify the King of *Spain*, in not inſiſting upon the preſerving for them their Antient Liberties, without helping to deſtroy them, and that if his Majeſty could have been prevailed upon to have been leſs rigid upon that head, all this had been avoided, and the *Catalans* perhaps in a great Tranquility, and as Obedient Subjects as any in *Spain* at this Day.

N°. 57. *Tranſlation of the Lord* Lexington's *Letter to the Deputies of* Barcelona, November 28*th*, 1713.

Gentlemen,

I Wiſh I could have ſeen, before my departure for *England*, the Deſires of the Queen my Miſtreſs accompliſhed, but it is ſo long ſince I have received Her Majeſties Orders to return, that I cannot defer the ſame any longer, and I ſet out this Day from *Madrid*, in order to go and embark at *Lisbon*, where one of our Men of War ſtays for me, ſo that the beſt I thought I could do for you, was to employ the laſt Moments of my Stay, in Supplicating anew the King your Maſter, to receive your Obedience in the Words of the Treaty of *Utrecht*,

Utrecht, and to pardon your Refuſal of the Amneſty which was offer'd you by his Catholick Majeſty. I charge the Conſul at *Alicant* to convey this Letter to you, under any pretext whatſoever, and that it may be deliver'd ſafe to you, that it may induce you, for your own good, to take the reſolution of having recourſe to the King's Clemency. There are advices here which aſſure us, that you have applied to the Queen my Miſtreſs, for uſing her good Offices with the Catholick King, for obtaining this favour in your behalf; relying upon thoſe Advices, I venture writing to you upon this Subject, having always been deſirous to contribute to every thing moſt favourable that might be demanded for you at this Juncture, which is ſuch, that I muſt repeat to you, I cannot give you a better Advice, than that of accepting the Amneſty in the Manner it was offer'd you, ſince God has not permitted that any thing more could be obtain'd in your Favour. I leave my Secretary at *Madrid*, to whom the Conſul will tranſmit your Anſwer, which may come to my hands at *Lisbon*, before I embark, in caſe you take your Reſolutions without any delay, and ſoon enough for that purpoſe, I could write from thence in ſuch manner as you ſhould deſire, having always been full of good Will for you, and ready to lay hold of all opportunities of ſhewing you how much I am, *&c.*

N°. 58. *Extract of a Letter from Lord* Lexington *to Monſieur* Orry, Nov. *30th*, 1715.

SIR,

I Send you the Letter for the Gentlemen of *Barcelona*, as we have concerted it, and approv'd by his Majeſty, A Letter for the Count of *Lecheraine*, and another for our Conſul at *Alicant*; it is neceſſary that the Count of *Lecheraine* ſhould be made privy to this Matter, for otherwiſe it will be very dificult to perſwade any one to undertake ſuch an Affair, which leads directly to the Gallows. You muſt either Secure the Perſon by a Paſport, that will undertake it, or give him a good reward; otherwiſe you will find no Body to do it.

I deſire you Sir to be perfectly perſwaded, that where-ever I am you have a faithful Servant, ſenſible of all the Obligations you have laid upon me. I deſire you to lay me at the Feet of the King and of the Queen, to whoſe Service I ſhall be devoted all my life. I go away deeply affected with all the Favours and Civilities their Majeſties have ſhewn me on all Occaſions. I ſhall have an Eternal gratitude for all the marks of goodneſs of Madam the Princeſs, and will not fail to acquaint the Queen with the Zeal ſhe has always ſhew'd for her Majeſties Service.

N°. 59. *Extract of a Letter from Mr.* Burch *to Mr.* Tilſon, Dec. *4th*, 1713. *N. S.*

HIS Lordſhip orders me to ſend you likewiſe the Letter, mentioned therein to the Gentlemen of the Deputation of *Barcelona*, which his Excellency has been perſwaded to write, at the repeated deſire of this Court.

That about a fortnight ago this was propos'd to his Excellency by the *French* Ambaſſador, who at the ſame time read a Paragraph out of a Letter from Monſieur *Torcy*, wherein he ſays, that the Queen had deſir'd his Maſter to joyn with her, in order to induce this Court to accommodate that Affair, to which his Lordſhip anſwered, that he could ſay nothing to it, ſince he had received no Orders to that purpoſe.

That

That the ſame was afterwards propos'd by the Princeſs, and in a very preſſing manner the morning before his Lordſhip left this Court, and at the ſame time told him, that the King deſired he would come to him that Evening, which his Lordſhip accordingly did, when his Majeſty was pleaſed to tell him, that he had receiv'd a Letter from his Grandfather to the ſame purpoſe with what the *French* Ambaſſador had before told him, and that therefore he deſired his Lordſhip would write ſuch a Letter; upon which his Excellency told his Majeſty much the ſame as what you will find marked in his Letter to Mr. *Orry*; however he thought he could not refuſe to comply with his Majeſty's repeated deſire upon this occaſion, eſpecially ſince there is nothing contain'd in the ſaid Letter, but what has been agreed upon at *Utrecht*, and his Lordſhip was the more inclined thereto for this reaſon, that if they had a Mind to accommodate, the Queen would have the Meditation; and if they had not, that then this Court would ſee, that her Majeſty would be always ready to ſerve them, and how neceſſary She might be to them upon all occaſions, which his Lordſhip hoped, would very much haſten the Concluſion of the Peace.

N° 60. *Extract of Sir* Patrick Lawleſs's *Repreſentation to the Lord* Bolingbroke, Sept. *9th*, 1713.

WHEREAS the Treaty for the Evacuating of *Catalonia* has not been effectuated on the Part of his Imperial Majeſty, and that the Inhabitants of *Barcelona* and *Majorca* do ſtill refuſe to put themſelves under the King of *Spain*'s Subjection, live in an hoſtile Manner, committing great Depredations at Sea, and interrupting all Commerce and Correſpondence in the *Mediterranean*, in which it is apprehended they will be aſſiſted by the *Algerines* and other *Moors*, to the univerſal Detriment of all the Trading Nations of *Europe*, unleſs ſome ſpeedy means be found to prevent the ſame by a Naval Strength: It is ſubmitted to the Conſideration of Her Majeſty, not only as Guarantee of the aforeſaid Treaty of Evacuation, but as it ſo materially concerns the Intereſt of *Great Britain*; and therefore his Catholick Majeſty hopes, that Her Majeſty will Order a Squadron of Her Ships of War, for the purpoſe of ſuppreſſing thoſe evil Practices, reducing his Catholick Majeſty's Subjects to their Obedience, and thereby compleat the Tranquillity of *Spain*, and of the Mediterranean Commerce.

N° 61. *Extract of the Inſtructions for Sir* James Wiſhart, February 28*th*, 1713.

WHEREAS frequent Complaints have been made to Us, that the Trade of our Subjects has been interrupted in thoſe Seas in an unuſual and extraordinary Manner by Ships and Veſſels belonging to *Catalonia*, *Majorca*, *Sardinia*, *Naples*, and other Places; You are therefore upon all ſuch Complaints which you ſhall receive from hence, or which ſhall be brought there by Our Subjects claiming your Protection, to apply in the moſt proper Method you can for Reſtitution to be made, and Satisfaction to be given; and you are to let the Perſons concerned know, that in caſe of refuſal, you are directed to make Repriſals, and accordingly when you judge it neceſſary, you are to make Repriſals upon ſuch as refuſe to do Juſtice to Our Subjects; We being determined to do all that in Us lies towards reſtoring the free and peaceable Navigation of thoſe Seas, and ſecuring the quiet and unmoleſted Commerce of all fair and lawful Traders.

You will have herewith put into your Hands an Authentick Copy atteſted by *Theophilus Blyke*, late Commiſſary of our Stores at *Barcelona*, of the Receipt given

given there, for ſuch Part of the ſaid Stores as were taken forcibly from him in the Month of *Auguſt* laſt, notwithſtanding his procuring an Article of his Inſtructions, by which he was forbid to deliver out any Stores unleſs by Direction from our Captain-General, or Commander in Chief of our Forces; You will have likewiſe a Copy of a Letter from the Deputation at *Barcelona* to Our High Treaſurer of *Great Britain*, and an Eſtimate of the Value of the aforeſaid Stores atteſted by the ſaid *Theophilus Blyke*. Upon theſe Foundations, when you come before the ſaid City of *Barcelona*, You will in Our Name demand the immediate Payment of the Value of the ſaid Stores according to the Eſtimate aforementioned, or a ſufficient Security for the Payment thereof in ſome reaſonable Time; and you will further repreſent to the Deputation of *Barcelona* on this Occaſion, that they have great Reaſon to think themſelves very tenderly us'd, if We only demand the Value of the Stores which were taken in ſo unjuſtifiable a Manner, to be paid Us; Whereas we might with ſo much Equity, and on ſo good Grounds likewiſe inſiſt upon a full Reparation for the Affront offer'd to Us, in violently Seizing our Stores, and confining the Perſon of our Officer.

We have alſo directed that a Copy of the Convention made at *Utrecht*, for the Evacuation of *Catalonia*, and for preſerving the Neutrality of *Italy*, ſhould be put into your Hands. We eaſily foreſee that many Complaints will be made, and that many Diſputes will ariſe concerning the Performance or Infraction of that Convention, whereof We made our Selves Contractor and Guarantee in ſo very particular a Manner. Wherefore We think fit to require and Command you to Endeavour upon all Occaſions to redreſs any thing that may be done contrary to it, and to enforce a ſtrict Obſervance of it in all its Parts.

Upon your repairing to *Barcelona*, you are likewiſe to give Notice of your Arrival to Our Right, *&c. Robert* Lord *Bingley*, whom we have appointed to be Our Ambaſſador Extraordinary at the Court of *Spain*, and to ſend him an Account of your Proceedings; and in this and all other Matters relating to Our Service, you will take Care to Correſpond with our ſaid Ambaſſador; particularly in Order to the putting an End to the Diſorders and Confuſions which now reign in thoſe Parts. And when you ſhall be informed by our ſaid Ambaſſador of the Negociations he has adjuſted concerning the Inhabitants of *Catalonia*, and towards procuring the Quiet and Settlement of that Province, and of the Iſland of *Majorca*, you ſhall upon ſuch Informations and Advices take the neceſſary Meaſures purſuant to Our Intentions and the general Inſtructions We have given you in that behalf, and according to ſuch other Inſtructions as you may from Time to Time receive relating thereunto.

N° 62. *Extract of additional Inſtructions for Sir* James Wiſhart, *the* 18*th of* March, 17$\frac{13}{14}$.

WHEREAS by Our Inſtructions to you bearing Date the 28th Day of *February* laſt, you are directed to give Notice of your Arrival at *Barcelona* to Our Right, *&c. Robert* Lord *Bingley*, who is going as our Ambaſſadour Extraordinary to the Court at *Madrid*, and to purſue ſuch Meaſures as are therein mentioned: Our Will and Pleaſure is, that you ſhould take Care to time your Arrival before the ſaid City of *Barcelona*, according to the Advices which you ſhall receive from our ſaid Ambaſſador. And whereas he will be Inſtructed to uſe his utmoſt Endeavours to obtain for the People of *Catalonia* (notwithſtanding their refuſal upon the Evacuation of that Country by the Troops of his Imperial Majeſty, to Submit to Our good Brother the Catholick King) all the Security and Advantages that are poſſible, you ſhall therefore upon receiving from our ſaid Ambaſſador an Account of what he has been able to obtain from the Court at *Madrid* in their Behalf, endeavour by the ſtrongeſt Repreſentations you can make, to induce the Government of that Principality to accept of the Terms ſo obtained, and no longer to continue a War, the Event of which muſt, ſooner or later, be fatal to them.

And whereas by Our Inſtructions afore-mentioned, We did likewiſe direct you to demand Satisfaction from the Inhabitants of the Iſland of *Majorca* and others, for the Piratical Depredations which have been and may be exerciſed on any of our Subjects Trading in thoſe Seas; Our further Will and Pleaſure is, that you ſhould in the firſt Place take all proper Methods of Perſuaſion to induce the Inhabitants of the ſaid Iſland to ſubmit to the Terms which Our Ambaſſador at *Madrid* aforeſaid ſhall inform you to be offer'd to them; and in caſe they do perſiſt in their Refuſal to comply with ſuch Terms, then you are to employ the Squadron under your Command in countenancing and aſſiſting all Attempts which may be made for the reducing of the ſaid Iſland of *Majorca* to a due Obedience, that ſo the ſame having been yielded up by his Imperial Majeſty, may become Subject to ſome Government or other, and no longer remain in the State it is at preſent, a Harbour for Pirates and Robbers.

You are to take the firſt Opportunity you have, when you are on the Spot, and joining with the Spaniards in their Undertakings, to ſettle with the Officers of the Court of *Madrid*, the ſeveral Species of Proviſion, and other Neceſſaries which our Iſland of *Minorca* ſhall have Occaſion to draw for their Subſiſtance from that of *Majorca*, and to adjuſt as far as poſſible the particular Rates and Prices at which the ſaid Proviſions, and other Neceſſaries ſhall from Time to Time be furniſhed.

You ſhall likewiſe take the beſt Care you can that it may be underſtood, that Our Subjects of the Iſland of *Minorca* may have free leave to fetch what Quantity of Wood they ſhall want for the Iſland of *Ivica*; and if you find the *Spaniards* to take Umbrage at this Practice, or to make a Difficulty of allowing this Liberty, then you are to inſiſt, in conſideration of the Friendſhip between Us and the Catholick King, and of the Obligations which he has to Us, that ſome Agreements or Convention be made for ſettling that Matter on the beſt Terms that can be obtained, and as ſhall be reaſonable.

N° 63. *Extract of Monſieur de* Torcy's *Letter to Mr.* Prior, Marly *Nov.* 13*th*, 1713.

YOU receiv'd, *Sir*, ſometime ſince, Orders from the Queen of *Great-Britain* to uſe Her good Offices with the King in Favour of the *Catalans*, who have rebell'd againſt the King of *Spain*, and of the Inhabitants of *Barcelona*. You acquainted me, that Her *Britannick* Majeſty was ſure they would ſubmit to the King their Maſter, if that Prince would grant them a general Amneſty, the Reſtitution and Enjoyment of all their Eſtates, and in ſhort the ſame Conditions which he had cauſed to be offer'd them, and which they did not accept, without mentioning their ancient Privileges any more.

The Anſwer which the King juſt now receives from the Catholick King upon this Article, is, that he is ſtill willing to grant the ſame Conditions to the Rebellious *Catalans*, notwithſtanding they render'd themſelves unworthy of his Favours, by ſlighting them, and altho' he is now in a Condition to reduce them by Force: He deſires the King to impart his Anſwer to the Queen of *Great-Britain*, my Lord *Lexington* having had no Orders to ſpeak about this Affair.

N°. 64. *Extract of my Lord* Bolingbroke's *Letter to Mr.* Prior, Sept. 25*th*, 1713.

THERE is a Perſon here, of whom we have never taken the leaſt Notice as a publick Man, but who however, is an Agent from the *Catalans*. By what we obſerve in him it is pretty plain, that a reaſonable Accommodation might

might be made with that turbulent People. What is the Senſe of the *French* Court on this Matter? How far will they concur with the Queen in adviſing *Philip* to make an End of that War?

N° 65. *Extract of Sir* James Wiſhart's *Letter to my Lord* Bingley, *from* Alicant-Road, *the 19th of* May, 1714. *O. S.*

I Take leave to acquaint your Excellency, that upon my Arrival here, I received a very civil Letter from Monſieur *Grimaldo*, his Catholick Majeſty's Principal Secretary of State, in Anſwer to that I wrote to him from *Cadiz*, together with the King's Order for our being exempted from paying the Duties of ſuch Wine, Oil, and other Proviſions as we ſhould have Occaſion for in his Ports; but the Prices of them are ſo very High, that though we have now that Priviledge, we muſt think of being ſupplied elſewhere in the *Mediterranean*, if we don't find them cheaper in ſome other Ports of *Spain*.

My Lord, Whereas it has been uſual, That the Grant of Exemption from the ſaid Duties, has been made to the Admiral and Commander in Chief of Her Majeſty's Ships when on theſe Coaſts: I deſire your Excellency may be pleaſed to move, that the ſaid Grant be made to myſelf, if you think Convenient; but as this is but a Trifle, I ſubmit it to your better Judgment, whether the Granting of it may not be a means to prevent any thing that might be intended from the Court of *Madrid* more to my Advantage, and do leave it intirely to your Conſideration what may be moſt for my Intereſt at that Place. And I hope by your Lordſhip's Friendſhip to find ſome Marks of Favour from thence in regard of the very great Expence I am at in this Expedition, which is ſo much intended for their Service, and for which I have no Allowance from Home but my Pay, which won't defray half my Charges.

N° 66. *Extract of Sir* James Wiſhart's *Letter to my Lord* Bingley, *from* Alicant-Road, May *the 21ſt*, 1714. *O. S.*

MY Lord, in my Letter of the *19th* inſtant, I deſir'd the Favour of your Excellency to move the King of *Spain*, that the Grant of Exemption of the Duties of Wine, Oil, *&c.* ſhould be to my ſelf, in regard that thoſe who have been Admirals of Her Majeſty's Fleet formerly in the *Mediterranean*, have had the ſame Benefit; but upon a further Conſideration of this Matter, which is but of ſmall Moment, and that it may appear much greater than it really is, both at the Court of *Spain* and *England*, I deſire your Excellency may not take any Notice of it, but let the Grant ſtand as it does.

My Lord, on any other Occaſion that the Court of *Madrid* might take, to expreſs their good Will to me, I humbly beg your Excellency's Countenance and Aſſiſtance, leaving it entirely to you to do therein as you ſhall think fit.

N° 67. *Copy of a Letter from Sir* James Wiſhart *to the Government of* Barcelona, *from on Board the* Rippon *at Sea,* July *8th*, 1714. O. S.

Gentlemen,

WHEREAS many Complaints have been made from time to time, of the frequent Diſturbances given to the Commerce of the Subjects of the Queen of *Great-Britain*, by Ships and Veſſels carrying your Commiſſion, which have inſolently preſum'd to take, carry up, and plunder their Ships, and to uſe the Men belonging to them in a barbarous manner; I have thought fit to ſend to you Captain *Gordon*, who commands Her Majeſty's Ships of War, the *Moor* and *Launceſton*, to repreſent to you thoſe unwarrantable and preſumptuous Proceedings: And by Command of the Queen my Miſtreſs, I do demand Satisfaction for the ſame, expecting that it be immediately given, by your making Reſtitution to the ſeveral Parties injured, compenſating to them their Loſſes and Damages, and puniſhing the Commanders and Officers of your Ships and Veſſels, which have committed thoſe Depredations, with the utmoſt Severity as the Nature of thoſe Crimes deſerves, underſtanding that ſome of thoſe Ships and Veſſels commiſſion'd by you, do belong to *Majorca* and *Ivica*; I have alſo demanded from the Marquis de *Rubi*, that he do on his Part in procuring the Satisfaction aforeſaid, which he has promiſed me to do: And if what is ſo juſtly demanded of you be not punctually complied with, I leave to your ſelves to judge what the Conſequences may be. I am, *&c.*

N° 68. *Tranſlation of the Letter from the City of* Barcelona, *to Sir* James Wiſhart, July *23d*, 1714. N. S.

SIR,

YOUR Excellency's Letter of the *8th* inſtant *O. S.* which was deliver'd to us by Captain *Thomas Gordon* and Captain *John Fulley*, Commanders of the *Moor* and *Launceſton*, contains your Complaints againſt us, that our Privateers have detain'd the *Engliſh* Ships, having plunder'd and abus'd them, and depriv'd them of the Freedom of Trade; for which reaſon your Excellency demands Satisfaction for Damages; and to inform us of this Fact, Captain *Gordon* has communicated to us, a Memorial which we anſwer'd immediately; and we have the Honour to acquaint your Excellency, that only one of theſe Veſſels mention'd in the ſaid Memorial, laden with Salt, was brought into this Harbour by our Privateers; and that after having taken out her Lading, and entirely paid the Captain for the ſame, he would Sail out of the Port with all his Sails, and a ſtrong Wind, the Pilot having no regard to the ſhallowneſs of the Water, nor to the Intimation that was given him of the Danger to which he expos'd himſelf, as he experienc'd it, for he run a-ground at the entrance of the Harbour, and got off with much Difficulty, by the ſpeedy Aſſiſtance that was given him. Nevertheleſs we do not think we ought to pay for the Damages occaſion'd by the Ill Conduct of the Pilot,

As to the other Ships mention'd in Captain *Gordon's* Memorial, as we have not had the leaſt knowledge of it, we ſuppoſe there muſt be ſome miſtake; it may be alſo that at *Majorca* or *Ivica* they may know ſomething of it. However, we can give an account of ſome other Ships that came into this Port to ſell the Proviſions they had on board: they were well uſed, and ſold freely their Goods at a higher Price than they could have got any where elſe, having paid them with our beſt ſort of Mony to their intire ſatisfaction, having thus ſupply'd us with what we wanted, being beſieg'd; in which condition, according to the Law of Nations, we are perſuaded we have not acted againſt Juſtice or Reaſon, as your Excellency will ſee by the encloſed Copys of Letters, which we writ to the Governour of *Port-Mahon*, and Commadore *George Camock*, and by the Anſwer of the former to this City; whereby we doubt not but your Excellency will be convinced of the Juſtice of our Proceedings, and be made ſenſible, that the News ſpread in *Europe* that we lived like Pirates, is a mere Invention of our Enemys, to render us odious to Mankind, and hinder them from trading with us, thereby to deprive us of all Neceſſarys for our Subſiſtence, in order to reduce us the ſooner. And to convince your Excellency how much we value a good Correſpondence and Union with the *Engliſh* Nation, an Order was publiſh'd this day in this City, forbidding our Privateers, upon pain of Death, not to take, detain, or abuſe any *Engliſh* Ship under any pretence whatſoever, altho they ſhould even carry Proviſions to the Enemy. We hope your Excellency will be ſo juſt as to approve our Conduct, which is conformable to the Rights of People that are beſieg'd; aſſuring you, that when we ſhall know of any of our Ships, either with Commiſſion, or without, that ſhall have cauſed the leaſt damage to any *Engliſh* Ship, we will not only puniſh them rigorouſly, but ſhall likewiſe be ready to make good all Damages, as we told Capt. *Gordon* more at large: for we deſire always to continue in that good Correſpondence, which we have maintain'd hitherto with your Noble and Generous Nation, and to ſhew our moſt profound Reſpect towards the Queen of *Great Britain*; as alſo to obey your Excellency's Orders, which we earneſtly deſire you will pleaſe to honour us with, being with great Truth and Reſpect, *&c.*

Number LXIX.

Letter from the Town of Barcelona *to Sir* James Wiſhart, 23 July, 1714.

YOUR Excellency very well knows, that the Engagement *Catalonia* enter'd into, to receive *Charles* the Third for their King, was founded on the Protection of the High Allies, but moſt particularly of *England*; without which we were not capable of coming into ſo great an Undertaking. It was carry'd on ſeven Years, during which time we have always ſeen moſt Valiant *Engliſh* Troops, that have diſtinguiſhed themſelves not only in the Sieges of Places, but alſo in their Defence; particularly in that of *Cardona*, which as it was the laſt Action, ſo it is freſher in our Memory. In all this time *Catalonia* endeavour'd to ſerve the *Engliſh* Nation to the utmoſt of their power, by contributing Troops, and conſiderable Sums of Mony without Intereſt. And tho we had pleaſed our ſelves with the thoughts of the Happineſs to be always Subjects of *Charles* the Third, ſeeing him ſo powerfully ſupported; yet by the ordinary Change to which human Affairs are liable, we now ſee the Troops of the Duke of *Anjou*, aſſiſted by the *French*, Maſters of all the Principality, except *Barcelona* and *Cardona*: committing through the whole, the moſt execrable Hoſtilities, Burnings, and Plunderings, without ſparing the Effuſion of innocent Blood, and without diſtinction of Age or Sex. The Enemy have for a Year oppreſs'd this Town by Sea and Land, and we continually ſuffer the Calamitys of ſo long a Blockade; during which time above fourteen thouſand Bombs have been thrown into the Town, which have ruin'd the greateſt part of the Houſes. They are now endeavouring to attack us in form, and we fear that in twenty four Hours the Town will be batter'd in Breach.

We cannot expreſs to your Excellency with how much grief we ſee the Danger the Inhabitants are expos'd to, of becoming the Victims of that Cruelty with which they are threatned by the Enemy; and having no other Comfort left, but to fly to the Queen of *Great Britain*, we implore her Protection by the incloſed Letter to Don *Pablo Ignacio Dalmaſes*, our Envoy at *London*. In the mean time, till an Anſwer can come, we beſeech your Excellency from our Souls to mediate with the *French* Troops, who oppreſs us, for a Suſpenſion of Arms: ſince at the Congreſs of *Baden*, where Endeavours are uſing to conclude a General Peace, this Affair may ſtill be determined. We doubt not but your Excellency's Mediation will be powerful enough to procure us this Relief, your Excellency being Commander in the *Mediterranean*, and your Squadron being ſuperiour to that of the Enemy. We ſee no other Remedy but this, in Nature, to our Misfortunes; and therefore we hope your Excellency will not refuſe us: in this, our Relief conſiſts. And if *Catalonia* has merited any thing by its Services, and by its Conjunction with the *Engliſh* Nation, this is now the time to receive the Fruits of it, being worthy, by the means of your Excellency, of this Benefit; for which, all the Principality, and this Town, will ever be oblig'd to the whole Nation, and particularly to your Excellency: deſiring nothing more than to compenſate, by our Services, this Favour, which we hope from your Excellency's Goodneſs. It is worthy of your Excellency to comfort the Afflicted, and not to deny us this Favour in our great Neceſſity. And your Excellency may be aſſured of our perpetual Gratitude; deſiring your Excellency to honour us with your Orders, and that God grant you a long Life, *&c.*

Number LXX.

Extract of Sir James Wiſhart's *Letter to Lord* Bingley, *from* Alicant-Road, Auguſt 7. 1714. O. S.

I Am to acquaint your Excellency, that having received a Letter on the third of laſt Month, from Monſieur *de Grimaldo*, Secretary of State to the King of *Spain*, ſignifying to me from his Majeſty, That the Flota from *New Spain* was daily expected at *Cadiz*, and that all his Ships of War being now employ'd before *Barcelona*, he could not ſend any of them to meet the ſaid Flota as uſual, to give them Aſſiſtance in caſe of their being diſabled, or otherwiſe in want thereof; and therefore deſiring that three of her Majeſty's Ships under my Command, of the fourth Rate, might cruize off Cape *St. Vincent*, to look out for the ſaid Flota: I thought it proper to comply with the King's Deſire therein, and did accordingly order three Ships of that Rate to proceed on that Service, and continue thereon till the middle of this Month. I have acquainted my Lord *Bolingbroke* with it, and hope to meet with her Majeſty's Approbation of the ſame.

Number LXXI.

Hampton-Court, *29th of October* 1711.

Mr. St. John *to Monſieur* Torcy.

SIR,

I Had anſwer'd your Letter of the 21ſt of *October*, N. S. when that of the 2d of *November* was deliver'd to me. I ſhall no more repeat to you the Aſſurances of a perfect Sincerity, ſince Words become uſeleſs, when there are Opportunities of ſhewing it by Deeds.

Mr. *Gaultier*, who will have the Honour to give you this Letter, will at the ſame time give you a Deſcription of the preſent Situation of the Affairs of Peace.

It

It is eaſy for thoſe who find their Intereſt in the War, (I make uſe of your own Expreſſions) to raiſe and keep up Miſunderſtandings: This is what ill-meaning People endeavour at, as well with us as elſewhere. I am nevertheleſs in no great pain, ſince it does but depend on the moſt Chriſtian King to render their Efforts of no uſe: The Explications you promiſe me will diſſipate all theſe Clouds; and you may believe we will make uſe thereof with great Reſerve, when I aſſure you, That if the King would but offer, as he has heretofore done, a Plan of Specifick Preliminaries, the Queen would never communicate it to her Allies.

I ſhall conclude in aſſuring you, That provided the Sieur *Gaultier* returns with theſe Marks of Confidence, of which I make no doubt, you will ſee our Parliament, which is going to meet, as much inclinable to Peace as ever it was to War. I am, *&c.*

H. St. John.

JOHN DRUMMOND Eſq; 13000 *l.* by Tallies on Tynn, for Special Services of the War.

ANNE R.

OUR Will and Pleaſure is, That by virtue of our General Letters of Privy Seal, bearing Date the 13th day of *March*, in the firſt Year of our Reign, you iſſue and pay, or cauſe to be iſſued and paid, out of any Money that is or ſhall be lent to us at the Receipt of our Exchequer, upon Credit of Repayment out of the Moneys ariſing by Sale of our Tynn, unto our Truſty and Well-beloved *John Drummond* Eſq; or his Aſſigns, the Sum of 13000 *l.* without Account, Impreſt, or other Charge; the ſame being for ſuch Special Services relating to the War, as we have directed. And for ſo doing this ſhall be your Warrant. Given at our Court at *Windſor-Caſtle*, the 15th Day of *October* 1711. in the Tenth Year of our Reign.

To *Robert* Earl of *Oxford*, Lord High Treaſurer.

By Her Majeſty's Command,

OXFORD.

Memorandum,
A Warrant ſign'd by Lord Treaſurer on the aforegoing Sign Manual, the 24th of *November* 1711.

JOHN DRUMMOND Eſq; Out of Loans to be made on Credit of the Sale of Tynn.

ORDER, *&c.* 22d of *November* 1711. By virtue of her Majeſty's Letters of Privy Seal, bearing Date the 13th of *March* 1701. and in purſuance of a Warrant under her Majeſty's Royal Sign Manual, bearing Date the 15th of *October* 1711. That you deliver and pay of ſuch her Majeſty's Treaſure as remains in your Charge, unto *John Drummond* Eſq; or his Aſſigns, the Sum of 13000 *l.* without Account, Impreſt, or other Charge; the ſame being for ſuch Special Services relating to the War, as her Majeſty hath directed. And theſe, *&c.*

OXFORD.
R. BENSON.

ANNE

JOHN DRUMMOND Esq; 1200 *l.* in Satisfaction of so much expended by him for Special Service of the War.

ANNE R.

OUR Will and Pleasure is, That by virtue of General Letters of Privy Seal, bearing Date the 13th of *March* 1701. you issue and pay, or cause to be issued and paid, out of any our Treasure or Revenue, in the Receipt of our Exchequer, applicable to the Uses of our Civil Government, unto our Trusty and Well-beloved *John Drummond* Esq; or to his Assigns, the Sum of 1237 *l.* 10 *s.* without Account; that is to say, 1200 *l.* part thereof in Satisfaction of so much by him expended by our Command for Special Services relating to the War; and the remaining Sum of 37 *l.* 10 *s.* is to satisfy the Fees and Charges on receiving the said 1200 *l.* And for so doing, this shall be your Warrant. Given at our Court at *St. James's*, the 4th Day of *April* 1712. in the Eleventh Year of our Reign.

To *Robert* Earl of *Oxford*, and Earl *Mortimer*, our High Treasurer.

By Her Majesty's Command,

OXFORD.

Memorandum,
A Warrant sign'd by Lord Treasurer on the aforegoing Sign Manual, the 7th of *April* 1712.

JOHN DRUMMOND Esq; ORDER, *&c.* this 9th Day of *April* 1712. by virtue of her Majesty's Letters of Privy Seal, bearing Date the 13th of *March* 1701. and Warrant under her Majesty's Royal Sign Manual, dated the 4th Instant, That you deliver and pay of such her Majesty's Treasure as remains in your Charge, unto *John Drummond* Esq; or his Assigns, the Sum of 1237 *l.* 10 *s.* without Account: *viz.* 1200 *l.* part thereof in Satisfaction of so much by him expended by her Majesty's Command for Special Services relating to the War, and the remaining 37 *l.* 10 *s.* is to satisfy the Fees and Charges on receiving the said 1200 *l.* And these, *&c.*

OXFORD.
R. BENSON.

These are true Copies from the Entries in the Treasury-Books,

M. Frecker,
R. Burnbury,

Memo-

IN Purſuance of an Order of the *Houſe of* PEERS of the Twenty Firſt Day of *March*, $17\frac{15}{16}$, I do Appoint *Jacob Tonſon* to Print the TRYAL of *George* Earl of *Wintoun*; And do forbid any other Perſon to Print the ſame.

COWPER C.

THE TRYAL OF *GEORGE* Earl of *WINTOUN*, UPON THE Articles of Impeachment OF HIGH TREASON

Exhibited againſt him

By the Knights, Citizens, and Burgeſſes in Parliament Aſſembled, in the Name of Themſelves and of all the Commons of *Great Britain*,

In *Weſtminſter-Hall*, on *Thurſday* the 15th, *Friday* the 16th, and *Monday* the 19th Days of *March* $17\frac{15}{16}$; on the laſt of which Days Judgment of High-Treaſon was given againſt him.

Together with ſeveral Orders of the Houſe of Peers in courſe of Time preparatory to the ſaid Tryal.

Publiſhed by Order of the Houſe of PEERS.

LONDON:

Printed for *Jacob Tonſon* at *Shakeſpear's-Head*, over-againſt *Katharine-Street* in the *Strand*. MDCCXVI.

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THE TRYAL OF GEORGE Earl of WINTOUN FOR HIGH TREASON.

Die Lunæ 9 Januarii, 1715.

THE Earl of *Wintoun* was Impeach'd of High Treaſon; and the Articles were brought up againſt him and read the ſame Day in the Houſe of Lords: And it was order'd that the ſaid Earl, with the other Impeach'd Lords, ſhould be brought to the Bar of the Houſe of Lords the next Day, to hear the ſaid Articles read, and to abide ſuch further Order as the Houſe ſhould think fit to make concerning them.

Die Martis 10 *Januarii*, 1715.

The Earl of *Wintoun* and the other Impeach'd Lords were brought to the Bar in the uſual Form; then the ſaid Articles of Impeachment were read unto them; after which the Lord Chancellor asked them ſeverally what they had to ſay thereunto, and acquainted them that if they had any thing to requeſt of the Houſe this was their proper time.

Thereupon the Earl of *Wintoun* acquainted the Houſe he was unprepared, and very ignorant of the Forms of their Lordſhips Judicature, and deſired he might have a Copy of the ſaid Articles, and ſuch time to Anſwer as the Houſe ſhould think fit, and that Council might be aſſign'd to aſſiſt him. He was directed to withdraw; and being accordingly withdrawn, the Houſe took his Requeſts into Conſideration, and thereupon

Ordered, That his Lordſhip ſhould be allowed a Copy of the ſaid Articles of Impeachment, and time till *Saturday* next to put in his Anſwer thereunto, and that Council ſhould be aſſign'd him in order to aſſiſt him in preparing his Anſwer, and likewiſe in his Defence in matters of Law.

Then his Lordſhip was called in again, and the Lord Chancellor acquainted him with the ſaid Order, and that the Houſe expected he ſhould name ſuch Council as he deſired to have.

To which he anſwered, that no Body was allow'd to come to him, he was a Stranger and unprepared, and deſired to be allowed time to name his Council.

Then his Lordſhip being again withdrawn,

After ſome time he was again called in, and the Lord Chancellor, by Order of the Houſe, acquainted him, That the Houſe was pleaſed, beſides Council, to allow him a Sollicitor, and to give him leave to name whom he deſired to come to him this Evening or to Morrow Morning, in order to Adviſe him in the naming of Council and Sollicitor.

To which purpoſe the Earl of *Wintoun* named Mr. *Hereot* a Clergyman, Mr. *Menzies*, Major *Sinclair*, and Mr. *George Leſsley* a Lawyer.

And then he again withdrew.

And the Names of the ſeveral Perſons mentioned by the Earl of *Wintoun* being read to him,

Ordered, That they have leave to repair to the ſaid Earl at any convenient Hour, any time before the ſitting of the Houſe to Morrow, in order to adviſe him in the naming of Council, and a Sollicitor to aſſiſt him in his Defence.

Ordered, That the ſeveral Lords Impeached, or any of them, have Liberty to cauſe Search to be made, and Copies of Records and Journals to be taken out, in order to their Defence; and that the ſaid Lords ſhall have Summons iſſued for ſuch Witneſſes as they ſhall reſpectively ſend in the Names of, to be by them made Uſe of at their Tryals; which Witneſſes ſhall have the Protection of this Houſe for their ſafe coming and going, during the time of the ſaid Tryals.

Die Jovis 12 Januarii, 1715.

A Petition of *George* Earl of *Wintoun* was preſented to the Houſe and read, praying that he may have ſome further Time for nominating Council and a Sollicitor to act for him, and in the mean time to allow his Friends formerly named to have acceſs to him; he having cauſed Application to be made to Sir *Thomas Powis*, and Mr. *Mead*, to have appeared for him, but they both excuſed themſelves.

Ordered, That the ſame Perſons before allow'd to go to the Petitioner, have leave to reſort to him at any ſeaſonable Time, before Eleven of the Clock to Morrow in the Forenoon, in order to the adviſing him in naming other Council, inſtead of thoſe who have refuſed.

Whereas by Order of this Houſe on *Tueſday* laſt, the Lords Impeached were to put in their reſpective Anſwers to the Articles of Impeachment of High Treaſon exhibited againſt them by the Houſe of Commons on *Saturday* laſt: The Houſe being this Day moved at the requeſt of the Earl of *Derwentwater* and Lord *Widdrington*, to grant them further time to put in their Anſwers to the ſaid Articles of Impeachment; It is Ordered, that all the ſaid Lords have hereby further time allowed to put in their reſpective Anſwers to the ſaid Articles till *Monday* next at one of the Clock.

Die Lunæ 16 Januarii, 1715.

Whereas by Order of this Houſe on *Thurſday* laſt, the Lords Impeached were allowed time to put in their Anſwers till this Day to the Articles of Impeachment exhibited againſt them, The Houſe being this Day moved, in regard the Council aſſign'd ſome of the ſaid Lords refuſed to be concerned for them, that *Thurſday* next may be appointed peremptorily for them to put in their ſeveral Anſwers to the ſaid Articles; It is Ordered, That the ſeveral Lords do peremptorily put in their ſeveral Anſwers to the ſaid Articles on *Thurſday* next at one of the Clock; And that the Lieutenant of His Majeſty's Tower of *London*, do bring to this Houſe, on that Day, by that Time, the ſaid ſeveral Lords for the Purpoſes aforeſaid; And that Notice be forthwith given them of this Order.

Die Jovis 19 Januarii, 1715.

The Earl of *Wintoun* was brought to the Bar, by the Gentleman-Uſher of the Black Rod, where he kneeled until the Lord Chancellor directed him to riſe, and his Lordſhip acquainted him with the above-mentioned Order, and demanded of him if he was ready to put in his Anſwer.

He ſaid he had a Petition to preſent to the Houſe: He was an entire Stranger to the Nature of their Lordſhips Proceedings, and deſired his Petition might be read; and the ſame was read as follows.

To the Right Honourable the Lords Spiritual and Temporal in Parliament Aſſembled.

The Humble Petition of *George* Earl of *Wintoun*,

Humbly Sheweth,

THAT on *Thurſday* laſt I having apply'd to your Lordſhips, repreſenting how I had caus'd Application to be made to two Lawyers, to act as Council for me, in the Impeachment Exhibited before your Lordſhips againſt me by the Honourable Houſe of Commons, and that they both declin'd to meddle, for Reaſons then given; your Lordſhips were pleas'd to allow me ſome more time for nominating of Council, and Sollicitors, and this Day for giving in my Anſwers; but by reaſon of my cloſe Confinement, and that your Lordſhips Order for allowing ſome Perſons to have Acceſs to me, expired on *Friday* laſt at Eleven Forenoon; I have had no Opportunity of naming other Council and Sollicitors; nor can I have the Aſſiſtance of any, till they are appointed by your Lordſhips, and they allow'd Acceſs to me.

That your Petitioner has ſeveral Specialities and Matters of great Moment, which he conceives Neceſſary to be a Part of his Anſwers, and which cannot be drawn into Form, without the Aſſiſtance of his Council and Sollicitors

Forasmuch therefore as this Affair is to me of the greateſt Importance; may it pleaſe your Lordſhips to aſſign Sir *Conſtantine Phipps*, and Mr *Peer Williams*, to be Council, and *Charles Menzies*, and Mr. *James Leſlie*, to be my Sollicitors, and to order that they may have acceſs to me from time to time during my Tryal; as alſo that your Lordſhips would be pleas'd to allow Mr. *George Hereot*, a Miniſter of the Church of *England*, to have Acceſs to me from time to time, ſeeing I am confin'd in a Room alone

And your Petitioner ſhall ever pray, &c.

WINTOUN.

The ſaid Earl of *Wintoun* was directed to withdraw; and being withdrawn accordingly,

The *Order made on Thurſday* laſt upon his Petition was read, as alſo the ſeveral Orders made on *Monday* laſt.

Ordered, That the Council mentioned in the ſaid Petition be aſſigned him, and that either of the ſaid Sollicitors be likewiſe Aſſigned, and that he have time to put in his Anſwer to the ſaid Articles till *Monday* next. And that the Clergyman mentioned in his Petition being his Relation, may have Acceſs to him, provided he will ſtay in Cuſtody with him during his Confinement.

Then the Earl of *Wintoun* was again called in, and the Lord Chancellor acquainted him, that the Houſe had conſidered his Petition, and aſſign'd him the Council he deſired; and would aſſign him either of the two Sollicitors he ſhould chuſe; and that the Clergyman abovementioned might come to him upon the Condition before expreſſed. Then the ſaid Earl of *Wintoun* naming Mr *Menzies*, the Houſe accordingly aſſign'd him for his Sollicitor, and Ordered that the ſaid Council and Sollicitor may have Acceſs to him from time to time at all ſeaſonable Hours; and he withdrew.

Die Sabbati 22 Januarii, 1715.

A Petition of *George* Earl of *Wintoun* was preſented the Houſe and read, praying that their Lordſhips will allow him ſuch further time for putting in his Anſwer, as their Lordſhips ſhall think fit.

Ordered, That the ſaid Petition be Rejected.

Die

Die Lunæ 23 *Januarii*, 1715.

The Earl of *Wintoun* being brought to the Houſe according to Order by the Lieutenant of the Tower, the Gentleman-Uſher was commanded to bring him to the Bar, where he kneel'd until he was directed by the Lord Chancellor to riſe; and his Lordſhip acquainted him that this was the peremptory Day appointed by the Houſe for his putting in his Anſwer to the Articles of Impeachment exhibited againſt him by the Houſe of Commons, and asked him if he was ready to put in his Anſwer.

He thereupon made ſome Excuſes, and deſired further time for that purpoſe;

And was directed to withdraw.

Ordered, That the Earl of *Wintoun* be called in, and acquainted, that this Houſe, upon conſidering his Petition on *Saturday* laſt for further time to put in his Anſwer to the Articles of Impeachment exhibited againſt him, did Reject his ſaid Petition; and having indulged him more than any other of the Lords Impeached, are ſtill of Opinion (this being the peremptory Day for putting in his Anſwer) to allow him no further time, and that the Conſequence of his refuſing to Plead which will enſue in Law is, that Judgment will be awarded againſt him, as if he had pleaded Guilty. Then,

He was accordingly called in, and the Lord Chancellor acquainted him with the ſaid Matter.

He thereupon delivered in at the Bar his Anſwer, fairly ingroſs'd on Parchment, which was read.

Die Sabbati 28 *Januarii*, 1715.

The Commons replyed to the Anſwer of the Earl of *Wintoun*.

Die Mercurii 8 *Februarii*, 1715.

Ordered, by the Lords Spiritual and Temporal in Parliament aſſembled, That *Thurſday* the ſixteenth Day of this Inſtant *February*, be, and is hereby appointed for the Tryal of *George* Earl of *Wintoun* at the Bar of this Houſe in *Weſtminſter-Hall*, upon the Impeachment of High-Treaſon exhibited againſt him by the Houſe of Commons.

Die Veneris 10 *Februarii*, 1715.

Upon reading the Petition of *George* Earl of *Wintoun*, ſetting forth, That he had a Petition in the Houſe on *Wedneſday* laſt, when their Lordſhips appointed *Thurſday* next for the Petitioner's Tryal, deſiring that Conſideration might be had to the diſtance of the Place, and the ſeaſon of the Year, for bringing up of his Witneſſes, both Men and Women, from *Scotland*, and other Parts; but the Noble Peer who promiſed, and would have moved the ſaid Petition, not being preſent at the time of making the Motion for appointing a Day of Tryal, the ſaid Petition was not preſented in Form, which occaſion'd the Appointment of ſo ſhort a Time, wherein it is altogether impoſſible to prepare any thing in order for the ſaid Tryal: And praying that this Houſe will grant an Order to compel the ſeveral Witneſſes following (*viz.*) *John Gordon*, *George Trotter*, *George Hogg*, *John Stewart*, all Servitors to the Earl of *Wintoun*, —— *Beatoun* Wife to Mr. *David Nicholſon* in *Tranent*, *Adam Purvis* Clerk of the Epiſcopal Meeting-Houſe in *Tranent*, *Chriſtopher Seton* in *Port-Seton*, Lieutenant-General —— *Wills*, —— *Forſter* Eſq; —— *Miller* Eſq; Capt. *Alexander Streton*; —— *Mackintoſh* of *Bordlim*, —— *Aenſlie*, and —— *Tod*, Baillies of *Muſſelbrough*, and the School-Maſter of *Fiſherau*, to appear before this Houſe at the Tryal, to give Evidence on Behalf of the Petitioner; and to allow ſuch time for their coming hither, as, in regard to the diſtance of the Place, and the ſeaſon of the Year, and the importance of the Affair, their

their Lordſhips, in their great Wiſdom and Juſtice ſhall think reaſonable: It is Ordered, That the Time appointed for the Tryal of the Petitioner in *Weſtminſter-Hall* be, and is hereby, enlarged to *Thurſday* the Eighth Day of *March* next: And that the ſeveral Perſons afore-named be, and are hereby required, to attend this Houſe on *Thurſday* the ſaid Eighth Day of *March*, as Witneſſes on Behalf of the Petitioner, except ſuch of the ſaid Perſons as are now Priſoners for High Treaſon; and that they ſhall have the Protection of this Houſe for their ſafe coming and going, during the Time of the ſaid Tryal.

Tryal put off to Thurſday March 8.

Die Lunæ 5 Martii, 1715.

Upon reading the Petition of *George* Earl of *Wintoun*, ſetting forth, That his Agents have uſed all Diligence poſſible in ſerving the Order of this Houſe for the Attendance of his Witneſſes; and now they are all on their way hither, part by Sea and part by Land: And that the Nature of his Defence is ſuch, that if the Witneſſes were arrived, as none of them are, the Time would be too ſhort to prepare his Briefs, and inſtruct his Council: And praying that the Time appointed for his ſaid Tryal, may be enlarged for ſuch Time as their Lordſhips, in their great Juſtice and Wiſdom, ſhall think proper, in a Caſe of ſo great Conſequence: It is Order'd, That the Time appointed for the Petitioner's Tryal be, and is hereby, enlarged 'till *Thurſday* the Fifteenth Day of this Inſtant *March*, at Ten a Clock in the Forenoon.

Tryal again put off to Thurſday March 15.

Die Lunæ 12 *Martii*, 1715.

A Petition of *George* Earl of *Wintoun* was preſented to the Houſe and read, ſetting forth, That his Agents have uſed all poſſible Diligence in getting his Witneſſes hither, and ſeveral of them are lately arrived; but Four of the moſt material of them, tho' they all be on their way hither, are not yet come up, ſome of them being lame and others very infirm, ſo that they are not able to travel ſo quickly; And praying, that the Time appointed for his Tryal may be enlarged for ſuch Time as their Lordſhips, in their great Juſtice and Wiſdom, ſhall think proper, in a caſe of ſo great Concern.

And after Debate thereupon, and reading the Orders made in relation to the ſaid Tryal, *Charles Menzies*, the Petitioner's Sollicitor, was called in and examined upon Oath at the Bar touching the Allegations of the ſaid Petition: And failing to make good the ſame;

And being withdrawn,

It was moved to reject the Petition.

And the Queſtion being put whether the ſaid Petition ſhall be rejected, it was reſolved in the Affirmative.

Die Martis 13 *Martii*, 1715.

Several Orders were made for preſerving the Peace, and touching the courſe of Proceeding, to, and at the enſuing Tryal; and among them,

Ordered, That the Council aſſigned the ſaid Earl of *Wintoun* may be preſent when he is at the Bar, in order to be heard touching any Point or Matter of Law, if any ſuch ſhall ariſe.

Die Mercurii 14 *Martii*, 1715

Upon reading the Petition of *George* Earl of *Wintoun*, praying that this Houſe will be pleaſed to aſſign, and add Mr. *Kettelby*, and Dr. *Straynhane* to his Council formerly named, and that they may have acceſs to him during his Confinement; It is ordered, That the Council above-mentioned be aſſigned the Petitioner, to be heard to Matters of Law, but not to Matters of Fact, ſo as not to put off the Petitioner's Tryal, and that they or either of them have acceſs to the Petitioner from time to time, at all ſeaſonable times.

A Motion being made, That the following Perſons, whoſe Names were contained in a Liſt Exhibited at the ſame time, on behalf of the Earl of *Wintoun*, might be Summon'd as Witneſſes for the ſaid Earl at his Tryal; being then, as alledged, in or near the City of *London*:

Ordered,

Ordered, by the Lords Spiritual and Temporal in Parliament Assembled, That *John Gordon* of *Kirkhill*, *Alexander Nisbet* Writer in *Edinburgh*, *William Knox*, *Thomas Baine*, *John Watteſone*, all three of *Seaton*; Mrs. *Magdalen Corsbie* of *Cannongate*, *Agnes Duncan* of *Seaton*, Dr. *Lidderdale* a Phyſician, Dr *Cockburne* a Divine, Dr. *John Inglis*, Major *Sinclair*, *George Trotter*, and *George Hoge* of *Seaton*, be and are hereby required to attend this Houſe in *Weſtminſter-Hall*, to Morrow at Ten a-Clock in the Forenoon, in order to be examined as Witneſſes, on the Behalf of *George* Earl of *Wintoun* at his Tryal

The Houſe being Informed that the Earl of *Wintoun* deſired that General *Carpenter* might be examined as a Witneſs at his Tryal;

The ſaid General *Carpenter* being a Member of the Houſe of Commons;

A Meſſage was ſent to that Houſe by Mr. *Holford* and Mr. *Lovibond*, to Acquaint them, that the Lords do deſire that they will give leave to the ſaid General *Carpenter* to be examined at the ſaid Earl's Tryal

Ordered, That the Witneſſes which ſhall be produced by the Earl of *Wintoun* to be examined in his Defence, ſhall be examin'd upon Oath, which Oath to be adminiſtred to the Witneſſes on both Sides at the ſaid Tryal ſhall be this:

The Evidence which you ſhall give in this Tryal, concerning George *Earl of* Wintoun, *Priſoner at the Bar, ſhall be the Truth, the whole Truth, and nothing but the Truth.*

So help you God, and the Contents of this Book.

Die Jovis 15 Martii, 1715.

The Meſſengers ſent Yeſterday to the Houſe of Commons return Anſwer, That the Commons have given leave to General *Carpenter* to be Examined as a Witneſs at the Tryal of *George* Earl of *Wintoun*.

The Houſe was then Adjourn'd into *Weſtminſter-Hall*.

Begun in *Weſtminſter-Hall* on *Thurſday, March* 15, 17^{15}_{16}.

The Firſt Day.

ABOUT One of the Clock the Lords came from their own Houſe into the Court erected in *Weſtminſter-Hall* in the manner following.

The Lord High-Steward's Gentlemen Attendants, two and two.

The Clerks Aſſiſtant to the Houſe of Lords, and the Clerk of the Parliament, with the Clerk of the Crown in the Court of Chancery; the Clerk of the Parliament bearing the King's Commiſſion to the Lord High-Steward.

The Maſters in Chancery, two and two.

Then the Judges.

The Peers Eldeſt Sons, and Peers Minors, two and two.

Four Serjeants at Arms with their Maces, two and two.

The Yeoman Uſhers of the Houſe.

Then the Peers, two and two, beginning with the youngeſt Barons.

Then four Serjeants at Arms with their Maces.

The Serjeant at Arms attending the Great-Seal, and Purſe-Bearer.

Then Garter King at Arms; and the Gentleman-Uſher of the Black-Rod, carrying the White Staff before the Lord High-Steward.

The Lord High-Steward alone, his Train born.

When the Lords were placed in their proper Seats, and the Lord High-Steward upon the Wooll-Pack,

The Clerk of the Crown in the Court of Chancery ſtanding before the Clerk's Table, with his Face towards the State, having his Majeſty's Commiſſion to the Lord High-Steward in his Hand, made three Reverences towards the Lord High Steward; and, on his Knee, preſented the Commiſſion to the Lord High-Steward; after which, and uſual Reverences, the ſame was carried down to the Table: And then Proclamation for Silence was made in this manner;

O Yes, O Yes, O Yes! Our Sovereign Lord the King ſtrictly charges and commands all manner of Perſons to keep Silence, upon Pain of Impriſonment.

Then the Lord High-Steward ſtood up, and ſpoke to the Peers.

Lord High-Steward. His Majeſty's Commiſſion is going to be read; your Lordſhips are deſired to attend.

All the Peers uncovered themſelves, and they and all others ſtood up uncovered while the Commiſſion was reading.

GEORGIUS R.

GEORGIUS, Dei Gratia, Magnæ Britanniæ, Franciæ & Hiberniæ Rex, Fidei Defenſor, &c. Prædilecto & Fideli Conſiliario noſtro Willielmo Domino Cowper, Cancellario noſtro Magnæ Britanniæ, Salutem. Cum Georgius Comes de Winton, cum aliis, coram Nobis in præſenti Parliamento, per Milites, Cives & Burgenſes in Parliamento noſtro Aſſemblat' de alta Proditione per ipſum Georgium Comitem de Winton & al' Commiſſ' & perpetrat' in nomine ipſorum Militum, Civium & Burgenſium, & nomine omnium Communium Regni noſtri Magnæ Britanniæ impetit' & accuſat' exiſtit: Nos conſiderantes quod Juſtitia eſt Virtus excellens & altiſſimo complacens, Volenteſque quod prædict' Georgius Comes de Winton, de & pro Proditione unde ipſe ut præfertur impetit' & accuſat' exiſtit coram Nobis in præſenti Parliamento noſtro, ſecundum Leg' & Conſuetud' hujus Regni noſtri Magnæ Britanniæ, & ſecundum Conſuetudinem Parliamenti audiatur, ſententietur & adjudicetur cæteraque omnia, quæ in hac parte pertinent, debito modo exerceantur & exequantur ac pro eo quod Proceres & Magnates in præſenti Parliamento noſtra aſſemblat' Nobis humilime ſupplicaverunt ut Seneſcallum Magnæ Britanniæ pro hac vice conſtituere dignaremur. Nos de fidelitate, prudentia, provida circumſpectione & induſtria veſtris plurimum confidentes, Ordinavimus & Conſtituimus vos, ex hac Cauſa Seneſcallum Magnæ Britanniæ ad Officium illud, cum omnibus eidem Officio in hac parte debit' & pertinen' (hac vice) gerend' occupand' & exercend'. Et ideo vobis Mandamus quod circa præmiſſa diligenter intendatis, & omnia quæ in hac parte ad Officium Seneſcalli Magnæ Britanniæ pertinent & requiruntur hac vice faciatis, exerceatis, & exequamini cum effectu. In cujus rei Teſtimonium has Literas noſtras fieri fecimus Patentes, Teſte meipſo apud Weſtm' Decimo Quinto Die Martii, Anno Regni noſtri Secundo.

Per ipſum Regem propria Manu Signat'

Wrighte.

Serjeant at Arms. God ſave the King.

Then the Herald and Gentleman Uſher of the Black Rod, after three Reverences, kneeling, preſented the White Staff to his Grace; and then his Grace, attended by the Herald, Black Rod and Seal-Bearer (making his proper Reverences towards the Throne) removed from the Wooll-Pack to an armed Chair, which was placed on the uppermoſt Step but one of the Throne, as it was prepared for that purpoſe, and then ſeated himſelf in the Chair, and delivered the Staff to the Gentleman Uſher of the Black Rod on his Right Hand, the Seal-Bearer holding the Purſe on the Left.

Clerk of the Crown. Serjeant at Arms make Proclamation

Serjeant at Arms. O Yes, O Yes, O Yes! Our Sovereign Lord the King ſtrictly charges and commands all manner of Perſons to keep Silence, upon Pain of Impriſonment.

Then another Proclamation was made, as follows.

O Yes, O Yes, O Yes! Lieutenant of the Tower of *London* bring forth your Priſoner to the Bar, according to the Order of the Houſe of Lords to you directed.

Then *George* Earl of *Wintoun* was brought to the Bar by the Deputy Governour of the Tower, having the Ax carry'd before him by the Gentleman Jaylor, who ſtood with it on the Left Hand of the Priſoner, with the Edge turned from him. The Priſoner when he approach'd the Bar, (after

(after kneeling,) bowed to his Grace the Lord High-Steward, and to the Houſe of Peers; which Complement was returned him by his Grace and the Houſe of Peers.

And Proclamation being again made for keeping Silence,

The Lord High Steward ſpake to the Priſoner as follows.

George Earl of *Wintoun*, You are brought to the Bar of this Auguſt Judicature, in order to a fair and impartial Tryal, on the Impeachment of High-Treaſon Exhibited againſt you by the Commons of *Great-Britain* in Parliament aſſembled; to which you have anſwered, and pleaded Not Guilty: Thereupon the Commons have replied, and undertaken to prove you Guilty of the High-Treaſon whereof you ſtand Impeached.

Under this heavy Charge (of which your Lordſhip has long ſince had a Copy, and which you will now hear read again) nothing can be a greater Support to your Mind (eſpecially if not conſcious of Guilt) than to conſider that you are about to be Tryed by your Peers; not any ſelect Number of them, but by their whole Body aſſembled in Parliament, and indifferently ſummoned to attend this Tryal.

Hence your Lordſhip may be aſſured, That Juſtice will be adminiſtred to you, attended not only with that common Degree of Compaſſion which Humanity it ſelf derives to Perſons in your Condition, but alſo with that extraordinary Concern for you, which naturally flows from a Parity of Circumſtances common to your ſelf, and to them who Judge you, (thoſe Bonds, the weighty Accuſation laid upon you, with its Conſequences, almoſt only excepted.)

On the other hand, you muſt not hope, that if you ſhall be clearly prov'd Guilty, their Lordſhips, being under the ſtrongeſt Obligation to do Right that can be laid on Noble Minds, I mean that of their Honour, will not break through all the Difficulties unmerited Pity may put in their way, to do perfect Juſtice upon you, however miſerable that muſt render your Condition.

Your Lordſhip will not be interrupted while you are making your Defence in a proper manner; and therefore you will alſo attend with Patience to what ſhall be ſaid by the Managers of the Houſe of Commons, or given in Evidence againſt you.

When any of the Witneſſes produced againſt you by the Gentlemen of the Houſe of Commons are thoroughly examined by them, your Lordſhip will have Liberty to croſs-examine every Witneſs before another is called.

But the Council aſſigned you are not to croſs-examine any Witneſſes, nor to give you any Aſſiſtance, publick or private, while Matter of Fact only is in Queſtion; but if any Matter of Law ariſe during the Courſe of your Tryal, they may ſpeak to it in your Lordſhip's Behalf: And to that end they are permitted to be within hearing, that they may be the more ready and able to ſerve your Lordſhip on ſuch Occaſion.

Your Lordſhip is the firſt that on an Impeachment for High Treaſon will have had the Benefit of a good Law made in the Firſt Year of the late Queen (ſince the Revolution;) whereby in all Tryals for High Treaſon, as well as other capital Offences mentioned in the Act, the Witneſſes produced on the Part of the Priſoner are to be examined on their Oaths: So that your Witneſſes will become intitled, in reſpect of the Obligation under which they give their Teſtimony, to the ſame Degree of Credit as the Witneſſes produced againſt you will be.

I take it for granted, that if your Lordſhip deſires it, you will be allowed the Uſe of Pen, Ink, and Paper, to take Notes in order to your Defence: And I doubt not but if during the Tryal you are obſerved to omit any juſt Advantage which the Law allows you, I ſhall not only be excuſed, but approved, if I put you in mind of it.

I am alſo commanded to acquaint your Lordſhip, That when you have Occaſion to ſpeak you are to addreſs your ſelf to the Lords in general, and not to any Lord in particular; as all others who ſhall have Occaſion to ſpeak in this Tryal will likewiſe take notice they are to do.

The

The Lord High-Steward having done, commanded the Articles of Impeachment, and the Earl of *Winton*'s Answer thereunto, as also the Replication of the Commons to the said Answer, to be read; and the same were read accordingly, as follows.

ARTICLES *of Impeachment of High Treason exhibited against* James *Earl of* Derwentwater, William *Lord* Widdrington, William *Earl of* Nithisdale, George *Earl of* Winton, Robert *Earl of* Carnwath, William *Viscount* Kenmure, *and* William *Lord* Nairn.

WHEREAS for many Years last a most wicked Design and Contrivance has been formed and carried on, to subvert the ancient and established Government, and the good Laws of these Kingdoms; to extirpate the true Protestant Religion therein Established, and to destroy its Professors; and instead thereof, to introduce and settle Popery and Arbitrary Power; in which unnatural and horrid Conspiracy great Numbers of Persons of different Degrees and Qualities have concerned themselves and acted; and many Protestants, pretending an uncommon Zeal for the Church of *England*, have joyned themselves with professed Papists, uniting their Endeavours to accomplish and execute the aforesaid wicked and traiterous Designs:

And whereas it pleased Almighty God in his good Providence, and in his great Mercy and Goodness to these Nations, to crown the unwearied Endeavours of his late Majesty King *William* the Third of ever glorious Memory, by making him the Instrument to procure the Settlement of the Crown of these Realms in the Illustrious House of *Hanover*, as the only Means under God to preserve our Religion, Laws, and Liberties, and to secure the Protestant Interest of *Europe*; since which happy Establishment the said Conspirators have been indefatigable in their Endeavours to destroy the same, and to make way for the vain and groundless Hopes of a spurious Impostor and Popish Pretender to the Imperial Crown of these Realms.

And to accomplish these Ends, the most immoral, irreligious and unchristian-like Methods have been taken, but more particularly in the last Years of the Reign of the late Queen *Anne*, during which time all imaginable Endeavours were used by the said Conspirators to prejudice the Minds of the Subjects of this Realm against the Legality and Justice of the said Settlement of the Crown: And for that purpose the Holy Scriptures were wrested, and the most wholsome Doctrines of the Church of *England* perverted and abused by Men in Holy Orders, in the most publick and scandalous manner, in order to condemn the Justice of the late happy Revolution; and thereby to sap and undermine the Foundation of the said happy Establishment; and the most notorious Instruments of these wicked Purposes were countenanced by particular Marks of publick Favour and Distinction; false and dangerous Notions of a sole Hereditary Right to the Imperial Crown of these Realms were propagated and encouraged by Persons in the highest Trust and Employments, contrary to the ancient, undoubted and established Laws of these Kingdoms; jesuitical and scandalous Distinctions were invented and publickly inculcated, to enervate the Force and Obligation of those Oaths which had been contrived in the plainest and strongest Terms by the Wisdom of Parliament for the Security of the said Establishment; and to

to conceal their Deſigns, and thereby the better to enable them to carry on the ſame, great Numbers of the ſaid Conſpirators of all Ranks and Conditions, pretending a Zeal for the Proteſtant Succeſſion, openly and voluntarily took the ſaid Oaths; groundleſs Fears of the Danger of the Church of *England* were fomented throughout theſe Kingdoms, to diſorder the Minds of well-diſpoſed Proteſtants.

By all which and many other ſuch ungodly Practices of the ſaid Conſpirators, the moſt cauſeleſs and dangerous Jealouſies and Diſſatisfactions were created in the Minds of the good People of this Kingdom, and great Numbers of well-meaning, but deluded Proteſtants were much diſquieted.

But nevertheleſs theſe diſhoneſt Methods were purſued by the ſaid Conſpirators with indefatigable Induſtry, as the only Means to weaken the Foundations of the ſaid happy Eſtabliſhment.

And whereas the Diſſolution of the late glorious Confederacy againſt *France*, and the Loſs of the Ballance of Power in *Europe*, were further Steps neceſſary to compleat the Deſigns of the ſaid Conſpirators; And the ſame being effected by the late ignominious Peace with *France*, the *French* King was rendred formidable, and the Proteſtant Succeſſion was thereby brought into the moſt imminent Danger; and by theſe and other pernicious Meaſures, the Deſtruction ſo long intended by the ſaid Conſpirators for theſe poor Nations ſeemed near at Hand.

At which Time, and under which moſt deplorable Circumſtances, it pleaſed Almighty God in his infinite Wiſdom to call to himſelf the late Queen *Anne*, and by a Concurrence of many moſt wonderful Providences to give a quiet and peaceable Acceſſion to his preſent moſt Gracious Majeſty to the Throne of his Anceſtors, to which he was received with one full Voice and Conſent of Tongue and Heart, and the united Joy of every good Subject and good Proteſtant, as their only lawful and rightful Liege Lord; and altho' from the Moment his Majeſty Aſcended the Throne to this Day, his Reign has been one Series of Wiſdom, Juſtice and Clemency; his Labours Conſtant, Unwearied and Succeſsful to retrieve the Honour and Reputation of theſe Nations; to re-eſtabliſh the Trade and recover the Wealth of his Kingdoms; and although all imaginable Encouragement has been given to the Church of *England*, and all Tenderneſs ſhewn even to his Popiſh Subjects, and his conſtant Care has been to procure the univerſal Good of his People; nevertheleſs the ſaid Conſpirators have, by the moſt vile and impious Methods, renewed their Endeavours to throw theſe Kingdoms into the utmoſt Confuſion, and to entail endleſs Miſeries on us and our Poſterities: For theſe Ends many of the above-mentioned moſt wicked and dangerous Practices have been repeated with the utmoſt Induſtry and Inveteracy, to delude, diſorder, and corrupt the Minds of his Majeſty's good Subjects; the moſt groundleſs Jealouſies have been fomented againſt his wiſe and happy Adminiſtration, and in many Parts of his Kingdoms the moſt unnatural, unexampled Riots and Tumults, by the ſecret and malicious Endeavours of the ſaid Conſpirators, have been procured, ſtirred up, and encouraged againſt his peaceable Proteſtant Subjects, under falſe Pretences of Zeal for the Church of *England*, and thereby more effectually to delude his good Subjects, and ſeduce them from their Allegiance, and prepare them for an open Rebellion.

And the ſaid Conſpirators having at length reſolved to deprive theſe Nations of the invaluable Bleſſings which they now enjoy under the wiſe and gentle Reign of His preſent moſt Gracious Majeſty King *George*, and of the certain Proſpect of Happineſs which they have for their Poſterity, in a Succeſſion of Princes derived from himſelf; did contrive, confederate and reſolve to put their moſt malicious, wicked, and traiterous Deſigns into immediate Execution; for which purpoſe, *James* Earl of *Derwentwater*, *William* Lord *Widdrington*, *William* Earl of *Nithiſdale*, *George* Earl of *Winton*, *Robert* Earl of *Carnwath*, *William* Viſcount *Kenmure*, and *William* Lord *Nairn*, together with *Thomas Forſter*,

Forſter, Jun. the Lord *Charles Murray*, *Edward Howard*, *Thomas Errington*, *John Clavering*, *William Shaftoe*, Sir *Francis Anderton*, *Ralph Standiſh*, *Richard Townly*, *Thomas Butler*, *Thomas Walton*, *Gabriel Hasket*, *Richard Gaſcoigne*, and divers other Perſons, as falſe Traytors to his preſent moſt Sacred Majeſty King *George*, the only lawful and undoubted Sovereign of theſe Kingdoms, having withdrawn their Allegiance, and cordial Love, and true and due Obedience, which they as good and faithful Subjects owed to his ſaid Majeſty, did, in or about the Months of *September*, *October*, or *November* 1715, moſt wickedly, maliciouſly, falſely and traiterouſly imagine and compaſs the Death of his ſaid moſt Sacred Majeſty.

And for the Accompliſhing and Executing their ſaid Traiterous Purpoſe, they the ſaid *James* Earl of *Derwentwater*, *William* Lord *Widdrington*, *William* Earl of *Nithiſdale*, *George* Earl of *Winton*, *Robert* Earl of *Carnwath*, *William* Viſcount *Kenmure*, and *William* Lord *Nairn*, did, in or about the ſaid Months or ſome of them, and at diverſe other Times, and in diverſe Places within this Kingdom, wickedly and traiterouſly agree, confederate, conſpire, and reſolve together, with many other evil-diſpoſed Perſons, to raiſe, excite, and levy within the Counties of *Teviotdale*, *Northumberland*, *Cumberland*, and the County *Palatine* of *Lancaſter*, and elſewhere within this Kingdom, a moſt Cruel, Bloody, and Deſtructive War, againſt his Majeſty, in order to depoſe and murther his Sacred Majeſty, and to deprive him of his Royal State, Crown and Dignity.

And the ſaid *James* Earl of *Derwentwater*, *William* Lord *Widdrington*, *William* Earl of *Nithiſdale*, *George* Earl of *Winton*, *Robert* Earl of *Carnwath*, *William* Viſcount *Kenmure*, *William* Lord *Nairn*, their Accomplices and Confederates, in or about the Months aforeſaid, in the Counties aforeſaid, or ſome of them, did gather together great Numbers of his Majeſty's Subjects, and with them did aſſemble in a warlike and traiterous Manner, in order to raiſe Tumults and Rebellion within this Kingdom; and having procured great Quantities of Arms, Ammunition and warlike Inſtruments, at the Times and Places aforeſaid, or ſome of them, did form and compoſe, or did aſſiſt in the Forming and Compoſing an Army of Men, conſiſting of his Majeſty's Liege Subjects, in order to wage War againſt his ſaid Majeſty, for and in behalf and in favour of the ſaid Pretender to the Crown of theſe Realms; And the ſaid laſt mentioned Conſpirators, their Accomplices and Confederates, at the Time and Times and Places aforeſaid, and at divers other Times and Places within this Kingdom, did maliciouſly and traiterouſly make, levy, and raiſe War and Rebellion againſt his moſt Sacred Majeſty, and in a warlike and hoſtile Manner did march thro' and invade ſeveral Parts of this Kingdom, and did unlawfully take and ſeize the Horſes and other the Goods and Chattels of many of the peaceable and good Subjects of his Majeſty, and in other Places did take and ſeize, from his Majeſty's faithful Subjects, Guns, and other warlike Inſtruments, for the carrying on their traiterous Purpoſes.

And the ſaid laſt mentioned Conſpirators, their Complices and Confederates, during their March and Invaſion aforeſaid, in open Defiance of his moſt Sacred Majeſty's juſt and undoubted Title to the Imperial Crown of theſe Realms, did wickedly and traiterouſly Cauſe and Procure the ſaid Pretender to be proclaimed, in the moſt publick and ſolemn Manner, as King of theſe Realms; and in ſeveral Places in the Counties aforeſaid, or ſome of them, did unlawfully take and ſeize from his Majeſty's Officers of the Revenue the publick Mony, for the Uſe and Service of the ſaid Pretender; and tho' many of the Conſpirators are avowed Profeſſors of the Popiſh Religion, yet the more effectually to cover and diſguiſe their moſt wicked and traiterous Deſigns, and to delude his Majeſty's Subjects, they did prevail

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on and procure ſeveral Men in Holy Orders, Miniſters of the Church of *England* and who had before that time abjured the ſaid Pretender, to Accompany, Countenance and Abet the ſaid moſt traiterous Enterprize, and in ſeveral Places in the Counties aforeſaid, where the ſaid Conſpirators, their Complices and Confederates then were, to pray for the ſaid Pretender in the publick Churches, as King of theſe Realms.

That the ſaid laſt mentioned Conſpirators, their Accomplices and Confederates, did, on or about the Ninth, Tenth, Eleventh, Twelfth or Thirteenth of *November* aforeſaid, Traiterouſly ſeize and poſſeſs themſelves of the Town of *Preſton*, in the County *Palatine* of *Lancaſter*, againſt his Majeſty, and did then and there in a warlike and hoſtile Manner levy War, Oppoſe, Engage and Fight againſt his Majeſty's Forces; and did then and there cauſe and procure a miſerable and horrid Slaughter and Murther of many of His Majeſty's faithful Subjects.

All which Treaſons and Crimes above-mentioned were Contrived, Committed, Perpretated, Acted and Done, by the ſaid *James* Earl of *Derwentwater*, *William* Lord *Widdrington*, *William* Earl of *Nithiſdale*, *George* Earl of *Winton*, *Robert* Earl of *Carnwath*, *William* Viſcount *Kenmure*, *William* Lord *Nairn*, and other the Conſpirators aforeſaid, againſt Our Sovereign Lord the King, His Crown and Dignity; and contrary to the Duty of their Allegiance, and againſt the Laws and Statutes of this Kingdom.

Of all which Treaſons and Crimes, the Knights, Citizens and Burgeſſes in Parliament Aſſembled, do, in the Name of themſelves, and of all the Commons of *Great Britain*, Impeach the ſaid *James* Earl of *Derwentwater*, *William* Lord *Widdrington*, *William* Earl of *Nithiſdale*, *George* Earl of *Winton*, *Robert* Earl of *Carnwath*, *William* Viſcount *Kenmure*, *William* Lord *Nairn*, and every of them.

And the ſaid Commons by Proteſtation ſaving to themſelves the Liberty of exhibiting at any time hereafter any other Accuſations or Impeachments againſt the ſaid *James* Earl of *Derwentwater*, *William* Lord *Widdrington*, *William* Earl of *Nithiſdale*, *George* Earl of *Winton*, *Robert* Earl of *Carnwath*, *William* Viſcount *Kenmure*, and *William* Lord *Nairn*, or any of them; and alſo of Replying to the Anſwers which the ſaid *James* Earl of *Derwentwater*, *William* Lord *Widdrington*, *William* Earl of *Nithiſdale*, *George* Earl of *Winton*, *Robert* Earl of *Carnwath*, *William* Viſcount *Kenmure*, and *William* Lord *Nairn*, or any of them, ſhall make to the Premiſſes, or any of them, or to any Impeachment or Accuſation that ſhall be by them Exhibited according to the courſe and proceedings of Parliament; And do pray that the ſaid *James* Earl of *Derwentwater*, *William* Lord *Widdrington*, *William* Earl of *Nithiſdale*, *George* Earl of *Winton*, *Robert* Earl of *Carnwath*, *William* Viſcount *Kenmure*, and *William* Lord *Nairn*, be put to Anſwer all and every the Premiſſes; And that ſuch Proceedings, Examinations, Tryals and Judgments may be upon them and every of them had and uſed as ſhall be agreeable to Law and Juſtice.

The Anſwer of George *Earl of* Wintoun, *to the Articles of Impeachment Exhibited againſt him by the Honourable Houſe of Commons, for High-Treaſon, and other High Crimes and Miſdemeanours.*

THE ſaid Earl ſaving to himſelf all Benefit of Exception to the Incertainties and Inſufficiencies in the ſaid Articles of Impeachment contained, and alſo all Advantages and Privileges belonging to him as a Peer

of

of *Great Britain*, for Anſwer to the ſaid Articles ſays, That he cannot but eſteem it the greateſt Additions to his Afflictions, to fall under the Diſpleaſure of the Honourable Houſe of Commons: Yet as his Innocence under theſe Misfortunes is his Support, ſo he hopes it will be his Security. He being taken with Perſons that were in Arms againſt the Government, might reaſonably be preſumed to be equally guilty, and to be juſtly joined with them in the ſame Impeachment; but when it ſhall appear how much the Circumſtances of his Caſe differ from others, he does not doubt but your Lordſhips great Juſtice will diſtinguiſh him in Judgment; and that it will be as pleaſing to that Honourable Body, who are his Accuſers, to have an Innocent Man acquitted, as one that is Guilty condemned. He begs leave to take notice, That he is deſcended from a very ancient, noble Family, in whoſe Blood the Streams of Loyalty were always pure, never corrupted or polluted with Treaſon or Sedition; and he never degenerated ſo much from his Loyal Anceſtors, as to form or carry on any Deſign to ſubvert or alter the Conſtitution of theſe Kingdoms, but for the Preſervation of it was upon all Occaſions ready to ſacrifice his Fortune, and even his Life: He was ſo cautious to avoid giving occaſion to to be ſuſpected by the Government, that about Eight Years ago, upon his Return from his Travels, he withdrew from all Converſation, and confined himſelf to his Houſe, never correſponded by Letter with any Perſon whatſoever; yet to his great Misfortune, he could not be quiet or ſafe in his cloſeſt Retirement, for many Perſons both Officers and others of the Militia of the Shire of *Lothian*, under the ſpecious Pretence of ſerving the Government, but in reality actuated by private Pique and Revenge, ſeveral times, contrary to Law, forcibly entred by Night into his Dwelling-houſe, called *Seaton* Palace; rifled it, turned his Servants out of Doors, and carried away the Proviſions of his Family. The moſt Sacred Places did not eſcape their Fury and Reſentment, they broke into his Chapel, defaced the Monuments of his Anceſtors, took up the Stones of their Sepulchres, thruſt Irons thro' their Bodies, and treated them in a moſt Barbarous, Inhuman and Unchriſtian-like manner; Cannon and Mortars were brought to demoliſh his Houſe, and ſeveral Troops of Dragoons having gotten the Poſſeſſion thereof, ſome of them kept Guard there, and when they left it, many of the Militia enter'd, and kept Poſſeſſion thereof 'till they were driven from thence by the Highlanders, by whom he was likewiſe very ill treated, he being the only Perſon that was plunder'd by them. By theſe and many other Severities, the ſaid Earl was forced to leave his Houſe, and ſeek for Shelter among his Tenants and Neighbours, where he was purſued from Houſe to Houſe, and at laſt very unfortunately driven into the Company of ſome of the Gentlemen named in the Impeachment. He preſumes to affirm to your Lordſhips, that he did not join them with a Traiterous or Rebellious Deſign, but only with an Intention to preſerve himſelf from being inſulted and aſſaſſinated; for he had been once before taken up without any Warrant or Authority, and having got from the Perſons in whoſe Cuſtody he was, they threatned, if they could retake him, to murder him; and had before imbrued their Hands in the Blood of the Son of a neighbouring Gentleman. He never intended to have left his own Country; and when ſome Gentlemen mentioned coming into *England*, he oppos'd it; he was far from aſſiſting or encouraging them in their Undertakings; he was not admitted into their Secrets, nor informed of their Deſigns, and was ſo much a Stranger to their Proceedings, that when they marched towards *Northumberland*, he was told they were going along the Skirts of the Hills in *Scotland* to avoid General *Carpenter*; but afterwards diſcovered they were in *England* when it was too late, and to return alone into *Scotland* was too hazardous, which he did not attempt, becauſe he had reaſon to believe they would ſoon go back to *Scotland*.

Altho' he was constrained to keep the other Lords and Gentlemen Company, yet he never joined with them in any Act of Hostility, nor assisted in taking any of the Publick Mony, or in seizing any Guns or other Warlike Instruments, or countenanced or abetted them therein. He did not at *Preston* or elsewhere fire a Pistol, offer Violence to any Person whatsoever, or in any other manner fight against or resist his Majesty's Forces, but with the rest surrendered himself to General *Wills*. The Honour of a Peer is more valuable than Life itself, and therefore he ought to be so much the more cautious that it be not stained with the least Imputation of Guilt. The said Earl knows his Innocence, and hopes your Lordships will excuse him, if in Justice to himself, and for the Preservation of his Honour, he does not take upon him the Guilt of Crimes, the very Thoughts of which were always Strangers to his Breast: And therefore, in Answer to the Impeachment, he says, That he is Not Guilty of the Treason and other the Crimes and Misdemeanours mentioned in the said Articles, or any of them, in Manner and Form as is therein alledged; and for his Tryal puts himself on your Lordships, who are his Peers, and begs your Lordships to believe that his Answer proceeds from the Sense he has of the Truth of it, and not from Obstinacy or any Inclination to give your Lordships and the honourable House of Commons any unnecessary Trouble, or from the least Doubt or Mistrust of his Majesty's Clemency. But if upon his Tryal it shall appear, that he hath committed any Act which in the Rigour of the Law may be construed to amount to the Crime of High Treason, he hopes the Innocence of his Heart and his Ignorance in the Law will, by the Power of your Lordships Intercession, render him an Object of his Majesty's Mercy, which he and the rest at the time of surrendering themselves were encouraged by his Majesty's Officers to depend upon. The said Earl submits his Case thus circumstanced to your Lordships great Wisdom and Judgment, and humbly prays your Lordships favourable Interpretation thereof, not doubting but to make his Innocence appear to your Lordships Satisfaction.

WINTOUN.

The Reply of the House of Commons to the Answer of George *Earl of* Wintoun.

A Message was brought from the House of Commons by Mr. *Hampden* and others, to acquaint this House, That they have considered the Answer of *George* Earl of *Wintoun* to the Impeachment exhibited against him by the Knights, Citizens, and Burgesses assembled in Parliament, and do aver their Charge against the said *George* Earl of *Wintoun* for High Treason to be true, and that the said Earl of *Wintoun* is guilty of the High Treason in such manner as he stands impeached; and that the Commons will be ready to prove their Charge against him at such convenient time as shall be appointed for that Purpose.

Lord High-Steward. The Distance of this Place from the Bar is so very great, that I am obliged to ask your Lordships Leave that I come down to the Table.

Lords. Ay, ay.

Which being done accordingly,

The *Lord High-Steward* said, Gentlemen of the House of Commons, you will be pleased now to proceed.

Mr. *Hampden.* MY Lords, We appear in this Place in behalf of all the Commons of *Great Britain*, to make good the Impeachment of High Treason against the Prisoner at the Bar, *George* Earl of *Wintoun*.

The Commons in Parliament assembled being justly alarmed with the Dangers to which this Nation has been exposed by the late unnatural Rebellion, have found it incumbent on them to enquire into the Authors and Promoters

of

of ſo fatal and pernicious an Attempt, which was no leſs than to deprive theſe Nations of the invaluable Bleſſings which they enjoy under the wiſe and gentle Reign of his moſt Sacred Majeſty King *George*.

The indiſpenſable Duty which the Commons owe to his Majeſty, and to thoſe they repreſent, engage them to appear in the Cauſe of their Country, by examining into the Riſe and Progreſs of the ſaid late Traiterous Enterprize, contrived and carried on with an Intent to depoſe and murder his ſaid Majeſty, and to ſet up a Popiſh Pretender to the Crown of theſe Realms, and in conſequence, to change the Conſtitution of this Nation, and to introduce a Slaviſh and Arbitrary Government.

The Earl of *Wintoun* appearing to the Commons to have been deeply engaged in the late Rebellion, their Zeal and Affection, and their Concern for the Safety of the Nation, and the Security of the Proteſtant Succeſſion, and the Liberties of the People, have rendered it neceſſary for them to bring to your Lordſhips Bar this Offender, againſt whom they have, in the Name of themſelves and of all the Commons of *Great Britain*, exhibited Articles of Impeachment of High Treaſon, ſetting forth and charging

That the Earl of *Wintoun* (with his Aſſociates named in the Articles, and divers others) contrary to his Allegiance, did traiterouſly conſpire and imagine the Death of his moſt Sacred Majeſty; and in Aid of ſuch Treaſon, did in the Months of *September*, *October*, or *November* 1715 reſolve to levy in ſeveral Parts of *Scotland* and *England* a moſt deſtructive War againſt his Majeſty.

That his Lordſhip, with other his Confederates, did aſſemble in a warlike manner, and procur'd Arms, Ammunition, and warlike Inſtruments, and did compoſe an Army to wage War againſt his Majeſty, and did march thro' and invade ſeveral Parts of this Kingdom, and unlawfully ſeiz'd his Majeſty's Treaſure for the Service of the Pretender, and took away the Horſes and other Goods of many of his Majeſty's peaceable Subjects.

And that during the ſaid March and Invaſion, the Earl of *Wintoun*, with other Rebels, did, in open Defiance of his Majeſty's undoubted Title to the Crown of theſe Realms, frequently cauſe the Pretender to be proclaimed in a publick and ſolemn manner as King of theſe Realms.

That the more effectually to diſguiſe theſe wicked Intentions, and to delude his Majeſty's Subjects, the ſaid Earl, with other Rebels, did prevail on ſeveral Miniſters of the Church of *England*, and who had abjur'd the Pretender, to pray for the Pretender in ſeveral publick Churches as King of theſe Realms.

And that the ſaid Earl, his Aſſociates, and Accomplices, did in *November* laſt, traiterouſly poſſeſs themſelves of the Town of *Preſton* in the County-Palatine of *Lancaſter*, and did levy War and fight againſt his Majeſty's Forces, and procur'd a miſerable Slaughter and Murther of many of his Majeſty's good and faithful Subjects.

My Lords, The Earl of *Winton* has, in his Plea to the ſaid Impeachment, thought fit to deny Part of this great and heavy Charge; and in Anſwer to other Parts of it, he ſuggeſts to your Lordſhips to the Effect following;

That being taken with Perſons that were in Arms againſt the Government, he might be preſum'd to be equally guilty with them; but that when your Lordſhips ſhall conſider the Circumſtances of his Caſe, he doubts not of finding a Diſtinction from others in your Judgment.

He acquaints your Lordſhips with the Loyalty of his Anceſtors, from whoſe Character, he ſays, he is not ſo much degenerated, as to form or carry on any Deſign againſt the Conſtitution of theſe Kingdoms.

That to avoid being ſuſpected by the Government, he withdrew himſelf ſome Years ago from all Converſation, and retir'd to his own Houſe; but that ſeveral of the Militia of the Shire of *Lothian*, under pretence of ſerving the Government, did, contrary to Law, forcibly enter his Lordſhip's Houſe, which they rifl'd, and committed ſeveral other Diſorders there.

That

That afterwards Cannon and Mortars were brought to demoliſh his Houſe, and ſeveral Troops of Dragoons took poſſeſſion of it; and upon their leaving it, the Militia came and kept poſſeſſion of his Houſe till they were driven thence by the Highlanders, by whom he was alſo very ill treated.

That by theſe Severities, and afterwards not being ſuffered to live quietly among his Tenants, where he had retir'd for Shelter, he was driven into the Company of ſome of the Gentlemen named in the Impeachment; but affirms to your Lordſhips, that it was with an Intent to preſerve himſelf from being aſſaſſinated.

That he oppos'd the Propoſition of coming into *England*, and was not acquainted with the Deſigns of the other Gentlemen with him; and was ſurpriz'd when he found himſelf in *England*, but declin'd going back, becauſe he believ'd they would ſoon return to *Scotland*.

That he did not aſſiſt in taking any of the publick Mony, or in ſeizing any warlike Inſtruments.

That he did not at *Preſton*, or elſewhere, fire a Piſtol, offer Violence to any Perſon, or fight againſt his Majeſty's Forces, but ſurrendred himſelf to the King's General.

And as an Inducement for ſuch Surrender, his Lordſhip ſays, that he, and the reſt with him, were at that time encouraged by his Majeſty's Officers to depend on his Majeſty's Mercy.

My Lords, notwithſtanding what is contain'd in the Earl of *Wintoun's* Plea to the Impeachment of the Commons, and the ſpecious Explanation which his Lordſhip has given to ſuch Proceedings of his, as were a Foundation to the Commons to include his Lordſhip in the Articles againſt the other Lords mentioned therein; we make no queſtion but we ſhall ſhew the Fallacy and Inſufficiency of the ſaid Plea to our Charge againſt him, and make it appear, that no leſs is contain'd in our Accuſation againſt his Lordſhip, than what the Law in every Man's Breaſt, the Light of Nature, and the Rules of Society, diſapprove of, and condemn.

We ſhall in the Courſe of our Evidence prove to your Lordſhips, that the Earl of *Wintoun* joined early with the Rebels in *Scotland* in the beginning of this Enterprize; and that the Diſorders mentioned in his Plea to have been committed at his Houſe, and which he alledges as the Ground of his leaving it, and ſeeking Shelter among the Rebels, were not the true Cauſe of his joining them, ſince his Lordſhip had left his Houſe before the Highlanders came to it.

This Noble Peer was too great a Perſon to act an ordinary Part in this Rebellion. He openly engag'd in it, and not only appeared in Perſon, but led on, and encouraged his Aſſociates in it; ſome of which, thro' the Bleſſing of God on his Majeſty's Arms, are now in the Hands of Juſtice, and others have ſuffer'd for the ſame Treaſon.

We ſhall prove to your Lordſhips, that the Earl of *Wintoun* form'd a Troop of Horſe, which he maintain'd at his own Charge.

That he afterwards commanded a Squadron of Horſe, and that he continued his Command thereof in the ſeveral Marches to *Preſton*, and until the Surrender of that Place to the King's Forces.

That during the ſeveral Marches of the Rebels, the Earl of *Wintoun* was with them on Horſeback, arm'd with a Sword and a Caſe of Piſtols; and that he never ſhew'd any Uneaſineſs, but always appear'd as forward as any one; and that at the Action at *Preſton* his Lordſhip was aſſiſting, and very active among the Rebels.

That at ſeveral Places in *Scotland* and *England*, his Lordſhip, and other Rebels, caus'd the Pretender to be proclaim'd King of theſe Realms, and that his Lordſhip was preſent at ſuch Proclamations.

That his Lordſhip, and other Rebels, did in ſeveral Places cauſe his Majeſty's Treaſure to be ſeiz'd, for the Service of the Pretender; and did in ſeveral Places prevail on Miniſters of the Church of *England*, and who had Abjur'd

jur'd the Pretender, to pray for him in the Publick Churches, as King of theſe Realms.

That when the Rebels ſurrender'd themſelves at *Preſton* to the King's Forces, they were far from receiving any Aſſurances of Mercy from his Majeſty's Officers; but were acquainted by the ſaid Officers, that his Lordſhip, and others taken with him, had no Reaſon to expect Mercy, ſince they were taken in open Rebellion againſt his Majeſty.

My Lords, The Commons, who are ever vigilant for the Safety of his Majeſty, and for the Preſervation of the Liberties of the People, cannot anſwer it to God or their Country, if they neglected to exert themſelves, in bringing to exemplary Juſtice the open and declar'd Inſtruments of this Rebellion; and it is a Satisfaction to the Commons, that in the Courſe of their Interpoſition, to reſcue the Nation from the fatal Conſequences of the late Unprovok'd Rebellion, whatever Miſrepreſentations other Proſecutions may have been formerly liable to, the Notoriety of this Rebellion has been ſo evident, that the moſt malicious of our Enemies want Confidence to deny it.

We are not ſurpriz'd, that Papiſts ſhould be engag'd in this Rebellion, tho' the moſt unnatural and unexampled in its Circumſtances, by being void of the leaſt Pretext of Provocation, ſince they maintain it lawful to kill a Heretick King, and ſuch they term his preſent Majeſty, and 'tis declar'd by them, that ſuch a piece of Service is not only lawful, but pious, and agreeable to God.

But how Proteſtants could be poſſeſs'd with ſuch a Spirit of Infatuation, and to ſuch a Degree be deluded, as to believe the moſt ſecure and effectual way to protect the Church, was to have Recourſe to a Popiſh Prince, to reſcue it from the Danger they imagin'd it liable to, from the Proteſtant Succeſſion taking place: And how it could enter into the Heart of Proteſtants to be fir'd with ſuch an ill-directed Zeal, as to act in Conjunction with avow'd Enemies of their Religion and Liberties, is not to be accounted for; unleſs ſuch unnatural and deſtructive Attempts are ſome of the neceſſary Conſequences of the late Male-Adminiſtration.

No leſs was to be the Sacrifice, than of his Majeſty, and his Royal Family, (a Succeſſion of Princes appointed by Divine Providence to be the Guardians of the Proteſtant Intereſt in *Europe*) and of our preſent happy Conſtitution, to appeaſe the Fury of Papiſts and Proteſtants aſſociated in this Rebellion, and who envied us the Bleſſings we enjoy'd by the uninterrupted Exerciſe of our Religious and Civil Rights and Privileges.

Had this Rebellion taken place, this Nation, the Glory of the Reformation, the moſt ſubſtantial Bulwark againſt Popery, and that had at the happy Revolution, under the Influences of King *William* III. of immortal Memory, triumph'd over the Arbitrary Deſigns of our Enemies to ſubvert our Conſtitution, was to fall a Victim to Bigotry, Superſtition and Slavery, the pernicious and neceſſary Conſequences of introducing a Religion, void of natural Senſe and natural Conſcience.

If an Attempt to ſubvert the Government, to deſtroy the King, and ſet up a Popiſh Pretender; if marching in an Hoſtile Manner; if carrying on a Deſtructive War in the Bowels of the Nation, are only Acts of Surprize and Inadvertency, any Rebellion may be palliated over and excus'd; ſince ſcarce any Circumſtances can be added in Aggravation of that, which has lately been rais'd and carried on in this Kingdom.

My Lords, I have acquainted your Lordſhips with the neceſſary Occaſion of this Proſecution: I have endeavour'd in the moſt impartial manner to diſcharge the Truſt repos'd in me, by opening the Nature of the Charge againſt the Earl at the Bar. I have likewiſe ſtated to your Lordſhips the Subſtance of his Plea to the Impeachment of the Commons. I have given your Lordſhips a General View of the Evidence which we ſhall produce,

to make good our Charge, and to ſhew the invalidity of the ſaid Plea; and from the Malignity of the late rebellious and Traiterous Enterprize, and its Fatal Tendency, I have repreſented the Neceſſity the Commons were under of applying to your Lordſhips for National Juſtice. I am not inſenſible how Deficient I have been, in not ſetting a Matter of this Importance in the moſt advantageous Light; but I make no doubt, but that what is wanting in me, will be ſupply'd by the Ability of others that follow, and that your Lordſhips will find no Defect in their Diſcharge of the Parts they have taken in this Proſecution, whatever you may have found in the Opening of the Charge, and in that Part which has come to my Share.

Sir Joſeph Jekyll. I Have the Command of the Houſe of Commons upon me, to bear a part in the Proſecution of their Impeachment againſt this Lord at the Bar.

And That which is Aſſigned to me, is firſt to Obſerve to your Lordſhips the Nature of the Charge; and in the next place, to take notice of the Defence made to that Charge; and laſtly, to give your Lordſhips a general View of the Evidence which the Commons will produce to maintain their Accuſation.

And this I ſhall do with all the Plainneſs I am capable of, without attempting ſo vain or wicked a thing, as to Impoſe upon your Lordſhips, or divert you from the true Merits of this Cauſe.

My Lords, The Charge exhibited againſt this Lord, is a Charge of High Treaſon; High-Treaſon at the Common Law, as declared by the Statute of the 25th of King *Edward* III And there are two Species of High Treaſon mentioned in that Statute, which the Commons have taken notice of in their Articles of Impeachment. The Firſt is Compaſſing and Imagining the Death of the King; the Second is levying War againſt his Majeſty.

My Lords, The Overt-Acts that are ſet down in the Articles, I think, may be reduced to theſe Heads: Firſt, a Conſpiracy of the Earl of *Wintoun*, with other Lords and Gentlemen his Accomplices, to levy War with an intent to depoſe the King; and a Conſpiracy to levy ſuch a War, hath been held a ſufficient Overt-Act of compaſſing and imagining the Death of the King.

My Lords, The next Overt-Act is, his Lordſhip's joining with his Accomplices in proclaiming the Pretender, which is endeavouring to ſet up another Prince in the room of his Majeſty; and I believe it will not be doubted, but that is likewiſe an Overt-Act of the ſame Species of Treaſon. And if there wanted another Overt-Act, the levying War againſt the King with an intent to depoſe him (which is likewiſe mentioned in the Articles, as a diſtinct Species of Treaſon) may ſerve for an Overt-Act of the other Species of compaſſing and imagining the King's Death; for though it is reckoned in the Statute as a diſtinct Treaſon; yet it doth not thereby ceaſe to be of the nature of an Overt-Act of compaſſing and imagining the King's Death which it was antecedent to, its being declar'd a diſtinct Species; and this Point is likewiſe ſupported by Authorities, and many Attainders have been upon it.

My Lords, The ſecond Species of High Treaſon I charge upon this Lord, is that of levying War againſt the King; and the Overt-Acts mentioned are, the forming an Army, marching in an hoſtile Manner, ſeizing a Town, the Town of *Preſton*, engaging and fighting with the King's Forces.

My Lords, Perhaps it was not neceſſary to have alledged any of theſe Overt-Acts of levying War againſt the King, becauſe levying War it ſelf being an Act, it ſuperſeeds the neceſſity of inſtancing particular Acts of Hoſtility. But to avoid all Cavils, theſe particular Acts are likewiſe alledged in the Commons Impeachment.

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My Lords, I find another Crime charged upon this Lord who ſtands at the Bar, and that is Murder, the Murder of many of the King's faithful Subjects. And although this Crime is not mentioned in the Title of the Articles, and there was a good Reaſon for not doing it, ſince it is ſwallow'd up in the High Treaſon, the greater Crime in the Eye and Eſtimation of the Law, yet it doth not thereby loſe its moral Exiſtence or real Guilt; but on the contrary, by accompanying the other crime of High Treaſon, is Aggravated, and ſhows with what Miſchief his Heart may be filled, who at the ſame time he is Murdering his Fellow-Subjects is meditating the Deſtruction of his Prince, and the Overthrow of his Country's Liberty.

My Lords, This is the Nature of the Charge againſt my Lord. In the next Place I ſhall take Notice of that which occurs to me to be material in his Lordſhip's Defence, or the Anſwer he hath put in to this Charge.

My Lords, He hath pleaded generally Not Guilty; but not wholly relying on that general Plea, he hath in his Anſwer added a particular Specification of his Caſe. He begins in his Anſwer, by taking Notice and admitting, That *He being taken with Perſons that were in Arms againſt the Government, might reaſonably be preſumed to be equally Guilty, and to be juſtly joined with them in the ſame Impeachment.* He goes on to acquaint your Lordſhips with what ſevere and barbarous Uſage he met with at his dwelling Houſe, which he ſays forced him from his Houſe. He tells your Lordſhips at laſt, he was *very unfortunately driven into the Company of ſome of the Gentlemen named in the Impeachment*; but *He preſumes to affirm to your Lordſhips that he did not join them with a traiterous or rebellious Deſign, but only with an intention to preſerve himſelf from being inſulted and aſſaſſinated*: then he ſays, *Altho' he was conſtrained to keep the other Lords and Gentlemen Company, yet he never joined with them in any Act of Hoſtility.* But yet he is ſtill under ſome Diffidence of his Caſe, therefore your Lordſhips will find at the Cloſe of his Anſwer he ſays, *But if upon his Tryal it ſhall appear that he hath committed any Act, which in the Rigour of the Law may be conſtrued to amount to the Crime of High Treaſon, he hopes the Innocence of his Heart, and his Ignorance in the Law, will, by the Power of your Lordſhips Interceſſion, render him an Object of his Majeſty's Mercy, which he and the reſt, at the time of ſurrendering themſelves, were encouraged by his Majeſty's Officers to depend upon.*

My Lords, This ſpecial Caſe which my Lord hath made in his Anſwer, is not at all like the Caſe in my Lord Chief-Juſtice *Coke*'s Third Inſtitutes, Fol. 10. upon an Impeachment of High Treaſon. Several Perſons were found to join with Sir *John Oldcaſtle* and others (who were in open Rebellion) *pro timore Mortis, & quam cito potuerunt receſſerunt*, and thereupon they were acquitted, but here my Lord doth not pretend any Force was upon him, when he went in and joined the Rebels. I may therefore preſume to ſay this Lord's Defence is a weak and a doubtful one, but far be it from the Commons to deſire to convict his Lordſhip of the High Treaſon charged upon him by any Infirmity in his Defence, or by any Means whatever, but by the Strength and Clearneſs of the Evidence they ſhall produce to your Lordſhips, and for that I ſhall trouble your Lordſhips but a very little with repreſenting to you the general View of the Evidence that we ſhall produce, and it is this; This Lord thought fit to go in and join the Rebels, not alone, but accompany'd with fourteen of his own Servants; when he was there, he formed a Troop conſiſting of his own Servants, and others; he paid the Troop; commanded a Squadron of the Rebels Horſe in their March; aſſiſted at the ſeveral Proclamations of the Pretender; when there was an Alarm given of the coming of the King's Forces, he got on Horſe-back in order to oppoſe and fight them; and he was in Arms and Active with the Rebels in the Action at *Preſton*; and we ſhall ſhew your Lordſhips that at the Surrender there no Promiſe was made, no Expecta-

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tion of Mercy was raiſed by any of the King's Officers in the Mind of this Lord, or of any of his Accomplices.

My Lords, Tho' this be not material to the Iſſue now joined before your Lordſhips, yet it being put into my Lord's Anſwer, and being neceſſary for the Vindication of publick Juſtice, we ſhall ſhow plainly there was not the leaſt Encouragement or Intimation of that kind given.

My Lords, The Evidence will be more largely and particularly taken Notice of, by the Gentleman who is to come after me; and I am ſure my Defects will be amply made up, by what he will offer to your Lordſhips.

But I can't ſit down without taking notice, that if this heavy Accuſation be proved againſt the Lord at the Bar, it is a ſtrange Notion of Loyalty, ſo much boaſted of in my Lord's Anſwer, which he hath been pleaſed to entertain.

My Lords, There is not a nobler or more uſeful Principle belonging to a *Britiſh* Subject, than true Loyalty: Loyalty is a faithful and dutiful Obedience to the King, under the Sanction and Direction of the Law. If therefore his Lordſhip hath contracted the Guilt of this high Offence againſt the Law, which is charged upon him, he hath offended againſt this Principle: And this I will ſay in general, whoever they be who caſt the Law out of the Idea of Loyalty, they looſen the Bands of Allegiance; for it is the Law that binds upon the Conſcience of the Subject the Faith and Allegiance he owes to his Sovereign, as it doth upon the Conſcience of the Sovereign that Juſtice and Protection he affords to his Subjects.

Mr. Attorney-General. MY Lords, The Charges of High Treaſon mentioned in the Articles of Impeachment exhibited by the Commons of *Great-Britain* againſt the Earl of *Wintoun*, the Priſoner at the Bar, and the Nature of his Crimes, having been fully opened by Mr. *Hampden* and Sir *Joſeph Jekyll*; what remains for my part is to give your Lordſhips an Account of the Nature of the Evidence we ſhall produce to your Lordſhips againſt the Priſoner, to prove him Guilty of the High Treaſon for which he ſtands Impeached. He is charged with two Species of Treaſon, mentioned in the Statute of the 25 *Edw.* III. *viz.* *Firſt*, Compaſſing and Imagining the Death of our Sovereign Lord the King, whom God long preſerve. *Secondly*, Levying of War againſt the King within this Realm.

The Evidence that will be a Proof of the latter Treaſon, will alſo prove the firſt: For levying War to depoſe the King, is an Overt-Act of conſpiring the Death of the King, and hath always been ſo adjudged.

I ſhall briefly, and with as much Clearneſs and Truth as I can, ſtate the Evidence againſt the Priſoner, as it will appear by the Witneſſes we ſhall produce, without aggravating any thing which I do not think proper or neceſſary, your Lordſhips being Judges of the Fact, and of the Law ariſing thereupon. I ſhall only make this Obſervation on the Preamble to the Earl's Plea, That it directly contradicts his Plea of Not Guilty; and that if what he alledges be taken as true, he therein owns himſelf to be Guilty, though from thence he concludes, that he is not Guilty.

In *September* laſt the late Earl of *Mar* in *Perthſhire*, and in the beginning of *October* Mr. *Forſter* with ſome of the Attainted Lords in *Northumberland*, with great Number of armed Men, raiſed a Rebellion in Favour of the Pretender, and proclaimed him King of theſe Realms, and ſet up his Standard.

About the Seventh or Eighth Day of *October* laſt, the Earl of *Wintoun* left his Seat at *Seaton* in the County of *Lothian*, armed with a broad Sword and Piſtols, and carried with him Fourteen or Fifteen of his Servants, well mounted, and ſo armed; about the Tenth Day of *October* joined the Earl of *Carnwath* and the Lord Viſcount *Kenmure* at *Moffett* in the County of *Annandale*, and there they formed a little Army, which was commanded by Lord *Kenmure* till they joined *Forſter*.

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The Lord *Wintoun* formed a Troop with his own Servants and others, and it was called his Troop, and he paid his own Servants Eighteen Pence or Two Shillings a Day, and he commanded from that time a Squadron of Horſe, till he and the others ſurrendred to the King's Forces at *Preſton*.

About the Fourteenth or Fifteenth Day of *October*, the Earl of *Wintoun* and the reſt of the Rebels marched from *Moffett*, in a Hoſtile manner, with Trumpets and a Standard to *Lockmaben*. There the Pretender was proclaimed King of *Scotland*, *England*, *&c.* and the Earl of *Wintoun* attended, and joined in the Proclamation, with his Sword drawn. Thence the Rebels marched to

Auchtelfechen,	*Jedburg*,
Langholm,	*Rodberry*,
Hawick,	*Wooler*.

Where, about the Twentieth Day of *October*, *Forſter* and his Rebels, being about Five Hundred, joined the Lord *Wintoun* and the other *Scotch*, being Three Troops of Horſe.

From *Wooler* they all marched to *Kelſoe* in *Tiviotdale*, where the Highland Foot, commanded by *Mackintoſh*, joined them. There, at the Croſs, the Pretender was again proclaimed King, with Sound of Trumpet and Colours flying, the Lord *Wintoun* and the reſt aſſiſting.

On the Seventeenth Day of *October* they marched back to *Jedburg*, and there were alarmed with an Account that the King's Forces were near; on which they mounted, and marched out of Town, and drew up; the Earl of *Wintoun* being very active; but the Forces advancing being diſcovered to be part of the Rebels, they returned to *Jedburg*; and on the Twenty Ninth Day of *October* they marched to *Hawick*.

Here Cockades were made of Blue and White Ribbons for the *Scotch* Rebels, to diſtinguiſh them from the *Engliſh*, who had Red and White, and the Earl of *Wintoun* wore one, and gave others to his Men.

On the Thirtieth Day of *October*, from *Hawick* they marched to *Langholm*: Here, on the Thirty Firſt Day of *October*, about Five or Six Hundred of the Highland Foot left them, and went back; and they would not ſuffer any Perſon to come to them, to perſwade them to return, but the Earl of *Wintoun*; and he went to perſwade them, but could not prevail, and he returned, and declared it was not his Fault that they went away; and he after very much promoted the Rebels coming into *England*.

Here the Earl might have ſafely left the Rebels, if he had thought fit, without Hazard; and he had not gone alone, as in his Preamble he alledges.

From *Langholm* the Rebels marched to *Langtown* in *Cumberland*; and on the Firſt Day of *November* to *Brampton*; on the Second to *Penrith*; on the Third to *Appleby*; on the Fifth to *Kendall*; and on the Sixth to *Kirby-Lonſdale*.

At all theſe Places the Pretender was proclaimed King, the Earl of *Wintoun* aſſiſting.

On the Seventh Day of *November* they marched from *Kirby-Lonſdale* to *Lancaſter*, into which the Rebels marched with their Swords drawn, particularly the Earl of *Wintoun*; and here they again proclaimed the Pretender King, Lord *Wintoun* aſſiſting in the Circle.

Here the Rebels ſeized Arms, and ſome pieces of Cannon.

From *Lancaſter* the Horſe of the Rebels marched on the Ninth Day of *November* to *Preſton*, the Foot halted at *Garſtang*, and came to *Preſton* the Tenth.

In the Way to *Preſton* the Rebels were joined with about Fifteen Hundred Men, moſt part being of the County of *Lancaſter*.

And at *Preſton* the Pretender was again proclaimed at the Croſs.

During this March, at ſeveral Places, particularly at *Duns*, *Bromton* and *Appleby*, the publick Revenue of the King was collected by the Rebels, and Ceſſe's raiſed on the King's Subjects.

They marched with Drums, Trumpets and Colours; and, where they could, took Priſoners ſuch as appeared for his Majeſty.

They cauſed the Pretender to be prayed for, as King, in the Churches in *Lancaſter*, and other places, in their March.

Their conſtant Health was the Pretender's, by the Name of King *James*, and Succeſs to their Cauſe.

During the whole March the Earl of *Wintoun* never ſhewed any Uneaſineſs or Backwardneſs, but always appeared as forward and active as any of the Rebels.

Mr. *Calderwood*, their Quarter-Maſter, quartered the *Scots* in all places; and the beſt, next to the Lord *Kenmure*'s, he provided for the Earl of *Wintoun*, who uſed to complain, if good Quarters were not provided for him.

The next part of our Evidence will be to ſhew what happen'd at *Preſton*, of which the Rebels had taken poſſeſſion the Tenth Day of *November*.

On *Saturday* the Twelfth Day of *November*, about One in the Afternoon, General *Wills* with the King's Forces inveſted the Town, and attacked it that Day and on *Sunday*, and the Rebels defended it, and had made a Barrier at the entring of the Town, and planted the Foot in ſeveral Lanes and Streets for their Defence, and had the Cannon with them which they ſeized at *Lancaſter*.

The Earl of *Wintoun* during the Attack was with the other Lords, at the Head of Two Hundred Men, drawn up in the Church-yard; he had his Sword, a Piſtol in one Hand, and another in his Breaſt; during that Attack, ſeveral of his Majeſty's Officers and Soldiers were killed.

On *Sunday*, about Ten in the Morning, General *Carpenter* came alſo to *Preſton*, with the King's Forces under his Command. Thereupon the Rebels finding themſelves to be ſurrounded, about Three in the Afternoon ſent out Colonel *Oxborough* to the Generals, to know what Terms would be granted to them if they would ſurrender; the Generals gave this Anſwer, That no Terms would be granted to them, but that they muſt ſurrender at Diſcretion.

Soon after the Rebels ſent out Captain *Dalzeel*, to deſire time till Seven a Clock on *Monday* Morning, to conſider whether they ſhould ſurrender at Diſcretion. Upon which General *Carpenter* ſent Colonel *Churchill*, and General *Wills* Colonel *Cotten*, into the Town, to acquaint the Rebels that the time deſired ſhould be allowed them, provided they ſent out immediately an *Engliſh* Lord, and one of the *Mackintoſhes*, as Hoſtages, that none within the Town ſhould attempt to Eſcape, or make any Works for their Defence.

Colonel *Churchill* and Colonel *Cotten* went into the Town, and there met the Earl of *Wintoun* and the other Lords, and Mr. *Forſter*, and told them their Meſſage: All the Lords treated with them about the ſurrendring the Town, and ſeverally gave their Words, That if Time might be allowed them till next Morning to ſurrender, they would uſe their Endeavours that none ſhould make their Eſcape, and that they would not throw up any new Works for their Defence. Which Terms were agreed to, and the Earl of *Derwentwater* and Colonel *Mackintoſh* were delivered to them, and brought to the Generals as Hoſtages, and ſtaid all Night, and in the Morning early the Rebels agreed to ſurrender at Diſcretion, and the Lord *Foreſter* took poſſeſſion of the Town, where he found the Earl of *Wintoun* in Arms, and he ſurrendred himſelf to the Lord *Foreſter*, and delivered to him two Caſes of Piſtols; and being in Cuſtody, complained of the little Regard Mr *Forſter* had ſhowed to a Man of his Quality, and ſaid all the Reſpect that he had ſhowed him, was to give him the Poſt of Honour when there was any Danger.

The Generals *Carpenter* and *Wills* never offered any other Terms than that the Rebels ſhould ſurrender at Diſcretion, never promiſed them Mercy,

or

or that they would even intercede for Mercy for them; nor gave the Colonels, ſent into the Town, any Orders to offer Mercy; nor did they: All the Encouragement they gave them to ſurrender at Diſcretion, was, That if they did do ſo, they ſhould not be immediately put to the Sword by the Soldiers; and denied to promiſe, even to recommend them to the King's Mercy.

This is the Subſtance of the Evidence we ſhall lay before your Lordſhips, and the Order we ſhall give it in; and if what I have opened be proved, as I believe it will, or I would not have mention'd it, I apprehend it will fully prove the Charge againſt the Noble Lord, and ſhew how vain the Allegations in the Preamble to his Plea are.

I beg leave to ſay one thing more. The Noble Lord alledges, in the Preamble to his Plea, that he never ſhot off a Piſtol; certainly that is not material; for aſſembling and marching in a Hoſtile manner for a publick Purpoſe, and oppoſing the King's Forces, is Levying a War, although the Lord accuſed never ſhot off a Piſtol.

We will call our Witneſſes; and begin with *William Calderwood*, who was Quarter-Maſter the whole time with Lord *Wintoun*.

Sir *J. Jekyll.* My Lords, we deſire that *William Calderwood* may be ſworn.

L. H. Steward. Is it *William Calderwood* you call?

Sir *J. Jekyll.* My Lords, we deſire *William Calderwood* may be ſworn.

And he was ſworn by the Clerk accordingly.

Sir *J. Jekyll.* Mr. *Calderwood*, pray acquaint my Lords what you know concerning this Rebellion, or any Part that the Noble Lord at the Bar had in it; tell the Story according to your own Method.

L. H. Steward. Do you hear what Queſtion is asked? You are upon your Oath; give an Account of what you know of the late Rebellion, and what Part the Noble Lord at the Bar had in it.

Calderwood. Upon the Eleventh of *October* I went, with about Seventy Horſe, to join my Lord *Carnwath*, my Lord *Wintoun*, and my Lord *Kenmure*, at *Moffett*; where the Pretender was proclaimed.

Attorney-General. We deſire that he may acquaint your Lordſhips, what Number of Men they had at *Moffett*.

Calderwood. One Hundred and Fifty.

Att. Gen. Was the Priſoner at the Bar amongſt them? and did he bring in any with him?

Calderwood. Yes.

Att. Gen. About what Time did he come in?

Calderwood. Towards the Evening of the Eleventh Day.

Sir *J. Jekyll.* What Number did the Lord *Wintoun* bring with him?

Calderwood. About Fourteen.

L. H. Steward. You ſpeak of the Priſoner at the Bar; he came in with Fourteen Men?

Calderwood. Yes, my Lord.

Att. Gen. Were they all armed; or how many were armed?

Calderwood. I don't know whether all were, but the moſt part of them were, with Sword and Piſtol.

L. H. Steward. You have ſaid at what Place they were, but your Voice did not reach hither; at what Place?

Calderwood. At *Moffett*.

Sir *J. Jekyll.* When my Lord at the Bar joined the Rebels, what did they do? Go on, and tell your Story.

Calderwood. They went to *Lockmaben*.

Sir

Sir *J. Jekyll.* When did the Lord at the Bar join them there?
Calderwood. The next Day.
Att. Gen. What was done there?
Calderwood. The Pretender was proclaimed there next Day.
Att. Gen. Was the Noble Lord at the Bar aſſiſting at the proclaiming of him?
Calderwood. Yes, he was.
Att. Gen. In what manner did he aſſiſt?
Calderwood. With his Sword drawn, on Horſeback.
L. H. Steward. Who did aſſiſt at the Proclamation with a drawn Sword?
Calderwood. The Earl of *Wintoun.*
Att. Gen. Whence did you march from thence?
Calderwood. To *Auchtelfechen.*
Att. Gen. Whither did you march from thence?
Calderwood. To *Langholm.*
Sir *J. Jekyll.* And whither then?
Calderwood. To *Hawick.*
Att. Gen. Go on.
Calderwood. The Pretender was proclaimed there.
Sir *J. Jekyll.* Was the Lord *Wintoun* preſent at the Proclamation?
Calderwood. Yes.
Sir *J. Jekyll.* Whence did you go from thence?
Calderwood. To *Jedburg.*
L. H. Steward. Was the Pretender proclaimed there?
Calderwood. Yes.
Sir *J. Jekyll.* Who were preſent?
Calderwood. The Earl of *Wintoun, Carnwath,* and all the Lords.
Att. Gen. Where did you march then?
Calderwood. To *Rodberry.*
Att. Gen. What happen'd there?
Calderwood. We were join'd by General *Forſter.*
Att. Gen. How long did you ſtay there?
Calderwood. Two Nights.
Att. Gen. Was the Pretender proclaimed at *Rodberry?*
Calderwood. No.
Att. Gen. What Place did you go next to?
Calderwood. To *Wooler.*
Att. Gen. Whither from thence?
Calderwood. To *Kelſoe*; where we were joined by the Highland Foot.
Sir *J. Jekyll.* What Foot do you mean?
Calderwood. The Highlanders.
Sir *J. Jekyll.* Who commanded them?
Calderwood. Brigadier *Mackintoſh.*
Sir *J. Jekyll* From *Kelſoe* whither did you go?
Calderwood. Back again to *Jedburg.*
Sir *J. Jekyll.* Whither from *Jedburg?*
Calderwood. To *Hawick.*
Att. Gen. What happen'd at either of theſe Places?
Calderwood. Nothing.
Sir *J. Jekyll.* At *Hawick*; Did nothing happen there?
Calderwood. No.
Att. Gen. Was the Pretender proclaim'd at *Hawick* at either of the Times?
Calderwood. Yes, the firſt time, but not the ſecond.
Att. Gen. Who were preſent?
Calderwood. All the Lords.
Att. Gen. Name them— Was the Priſoner at the Bar there?
Calderwood. Yes.

Sir *J. Jekyll.* From *Hawick*, the ſecond time, to what Place did you go?
Calderwood. To *Langholm.*
Att. Gen. What happen'd at *Langholm?*
Calderwood. Five or Six Hundred of the Highland Foot went from us.
Att. Gen. Was there any Endeavours uſed to bring thoſe Five Hundred Highlanders back again?
Calderwood. I don't know of any.
Sir *J. Jekyll.* Who went to them? Did any of thoſe that were in Arms there go to them?
Calderwood. I was not there when they went off.
Att. Gen. Did the Noble Lord attempt to go off with them, the Priſoner at the Bar?
Calderwood. No; at *Jedburg* the Earl of *Wintoun* went up to them, to make them come back; where the Foot deſigned to go, and the Horſe were drawn up; and they would have no body come to them but the Priſoner.
L. H. Steward. I do not hear you; What do you ſay?
Calderwood. At *Jedburg* the Earl of *Wintoun* went to them.
Att. Gen. Did he declare any thing after his Return, about their going off, or their not returning?
Calderwood. No, not at *Jedburg.*
Att. Gen. Any where elſe?
Calderwood. I heard him at *Langtown* ſay, It was not his Fault they were gone off.
Att. Gen. Pray, might not my Lord *Wintoun* have gone off with them, if he would?
Calderwood. Yes, he might.
Att. Gen. From *Langtown* whither did you go?
Calderwood. To *Brampton.*
Att. Gen. Whither next?
Calderwood. To *Penrith.*
Att. Gen. Whither next?
Calderwood. To *Appleby.*
Att. Gen. Whither next?
Calderwood. To *Kendall.*
Att. Gen. Whither next?
Calderwood. To *Kirby-Lonſdale.*
Att. Gen. What happen'd there?
Calderwood. The Pretender was proclaim'd at the two laſt Places.
Sir *J. Jekyll.* Who was there?
Calderwood. I ſaw him there.
Sir *J. Jekyll.* Who?
Calderwood. The Earl of *Wintoun* at *Kirby-Lonſdale.*
Sir *J. Jekyll.* Whither did you go from thence?
Calderwood. To *Lancaſter.*
Sir *J. Jekyll.* Was the Pretender proclaimed there?
Calderwood. Yes.
Sir *J. Jekyll.* Who weré preſent?
Calderwood. Earl of *Wintoun*, *Kenmure*, *Carnwath*, *Nithiſdale.*
Sir *J. Jekyll.* How did they enter the Town of *Lancaſter?*
Calderwood. Sword in Hand.
Att. Gen. Was there any Arms or any Guns ſeized there?
Calderwood. Yes, Six Cannon were ſeized.
Att. Gen. From whence did they take them?
Calderwood. From a Ship.
Att. Gen. Speak up, and tell my Lords.
Calderwood. They ſeized Six Guns.
Att. Gen. Whence did they take them?

Calderwood. From a Ship.

Att. Gen. What became of them?

Calderwood. They carry'd them to *Preſton*, and mounted them there.

Att. Gen. What time came you to *Preſton* from *Lancaſter?*

Calderwood. What time? we ſtayed two Nights at *Lancaſter.*

Mr. Cowper. Sir, I deſire to ask you a Queſtion — Whether you was at Church at *Lancaſter?*

Calderwood. Yes.

Mr. Cowper. Who was prayed for there?

Calderwood. The Pretender as King of *England.*

Sir *J. Jekyll.* Who was at Church? was it the Pariſh Church?

Calderwood. Yes, the Pariſh Church.

Sir *J. Jekyll.* Who was preſent at Church?

Calderwood. I don't remember.

Mr. Cowper. From *Lancaſter* whither did you go then?

Calderwood. We went to *Preſton.*

Mr. Cowper. What Day did you arrive at *Preſton?*

Calderwood. The Ninth or Tenth Day of *November.*

Mr. Cowper. Did the Horſe and Foot arrive the ſame Day?

Calderwood. No, the Horſe came in one Day, and the Foot another.

Mr. Cowper. How long after the Horſe did the Foot come?

Calderwood. The next Day; then the Pretender was proclaimed. The Horſe came in on a *Wedneſday*, the Foot on *Thurſday.*

Att. Gen. Had you any Diſtinction between the *Scotch* and *Engliſh*, by Cockades?

Calderwood. Yes.

Att. Gen. What was the Diſtinction?

Calderwood. The *Scotch* had Blue and White, and the *Engliſh* had Red and White.

Att. Gen. Did the noble Lord meddle with any Cockade?

Calderwood. Yes, he had one at *Hawick.*

Att. Gen. Did he diſtribute them?

Calderwood. Yes, he delivered them from my Hands.

L. H. Steward. Who do you ſpeak of? Raiſe your Voice.

Calderwood. I ſay, my Lord, the Earl of *Wintoun* had a Cockade at *Hawick*, and took ſeveral of them from my Hands, and gave them away as he thought fit.

Sir *J. Jekyll.* You ſaw the Earl of *Wintoun* at *Preſton* when the King's Forces came thither; do you remember what paſt afterwards?

Calderwood. My Lord, I ſaw him, he had Sword and Piſtols; he was afoot by the Church-yard.

Att. Gen. As you came along to *Preſton*, acquaint my Lords whether you know any thing of the publick Revenues being collected.

Sir *J. Jekyll.* Before that, when my Lord was on foot with Sword and Piſtols going towards the Church-yard, was there any Forces drawn up there?

Calderwood. Yes, both Horſe and Foot were drawn up in the Church-yard.

Sir *J. Jekyll.* While my Lord was in Company; and in this March, was there any Troop formed?

Calderwood. Yes, there was a Troop.

Sir *J. Jekyll.* Who had any of thoſe Troops?

Calderwood. My Lord *Wintoun* had the Firſt.

Sir *J. Jekyll.* Of whom did his Troop conſiſt?

Calderwood. It conſiſted partly of Gentlemen, and partly of his own Servants.

Sir *J. Jekyll.* By whom were they paid?

Calderwood By my Lord *Wintoun.*

Sir *J. Jekyll.* How much a Day?

Calderwood. Two Shillings a Day.

Sir *J. Jekyll.* In what manner was the Troop accoutred?

Calderwood. Very well, with Swords and Piſtols.

Att. Gen. Did my Lord's Servants retain his Livery in the Army?

Calderwood. He had Five in Liveries.

Att. Gen. What were the reſt?

Calderwood. Domeſtick Gentlemen.

Att. Gen. Did my Lord command only that, or any other Body?

Calderwood. He commanded a Squadron.

Sir *J. Jekyll.* In your Paſſage, did my Lord diſcover any Uneaſineſs, or ſeek for any Opportunity of leaving them?

Calderwood. He never did that I know of.

Sir *J. Jekyll.* I think you quarter'd him, did he complain of his Quarters at any time?

Calderwood. He order'd me to give him good Quarters.

Sir *J. Jekyll.* And accordingly you did it for him?

Calderwood. Yes.

Att. Gen. We will go on. What happened at *Preſton*? what time did the King's Forces come there?

Calderwood. We came on *Wedneſday*, they came on *Saturday*.

Att. Gen. Tell my Lords what happen'd after the King's Troops came to that Town.

Calderwood. We defended the Town two Nights.

Att. Gen. When did they ſurrender?

Calderwood. They ſurrender'd on *Monday*.

Att. Gen. What paſt before? Did the King's Troops attack it, and demand a Surrender?

Calderwood. Yes, and we defended it.

Sir *J. Jekyll.* Was there any Proviſion made to ſecure the Town? Acquaint my Lords how it was defended.

Calderwood. We barricado'd it in every Street.

Sir *J. Jekyll.* After what manner? how?

Calderwood. We had two Cannon in every Street.

Att. Gen. During the time the King's Troops were at the Town, what Share did my Lord *Wintoun* bear in the Defence of it? where was he?

Calderwood. I ſaw him go towards the Church-yard.

Att. Gen. Was there a Body of Men with him in the Church-yard?

Calderwood. Yes, there was.

Sir *J. Jekyll.* When my Lord joined the Men, and in his March, was there any levying of Mony?

Calderwood. They raiſed Taxes as they called it, a Ceſs.

Sir *J. Jekyll.* We have done with this Witneſs; if my Lord hath a Mind to ask him any Queſtions, he is at Liberty to do it.

L. H. Steward. My Lord, if you have any Queſtion to ask, propoſe it, and it ſhall be ask'd.

L. Wintoun. I can't examine him, I deſire my Council may examine him.

L. H. Steward. I told your Lordſhip your Council are not to aſſiſt your Lordſhip in croſs-examining the Witneſſes; you have a Liberty of croſs-examining them your ſelf, by propoſing your Queſtions, and they will be askt by the Court.

L. Wintoun. I never examin'd a Witneſs in my Life, I deſire my Council may do it for me.

L. H. Steward. Have you any Queſtions?

L. Wintoun. My Lord, I hope you will allow my Council to ſpeak for me.

L. H. Steward. Have you any Queſtion you deſire to be ask'd, and it ſhall be ask'd?

L. Win-

L. Wintoun. I deſire my Council may ask for me; it is very hard to have none to ſpeak for me, and there are Twenty againſt me.

Proclamation made for Silence as uſual.

L. H. Steward. My Lord *Wintoun*, I hope now you will be better heard. If you have any Queſtion to ask this Witneſs, if your Lordſhip propounds it, it ſhall be ask'd him.

L. Wintoun. My Lord, allow my Council to ſpeak for me, I have but Two.

L. H. Steward. My Lord, I have acquainted you, (but apprehend you did not hear me,) that the Law of the Land doth not allow it.

Sir *J. Jekyll.* My Lords, If my Lord at the Bar doth not think fit to ask this Witneſs any Queſtions, nor your Lordſhips, we muſt call another Witneſs.

L. H. Steward to Calderwood *the Witneſs.* Direct your Anſwer this way. You have mentioned ſeveral Proclamations of the Pretender, Was there any at which my Lord, the Priſoner at the Bar, was not preſent?

Calderwood. I did not ſee him at the Proclamation at *Preſton.*

L. H. Steward. At how many other Places did you ſee him?

Calderwood. I ſaw him at *Wooler*, *Jedburg*, *Kelſoe* and *Kirby-Lonſdale*, and *Lancaſter*, where the Pretender was Proclaim'd.

L. H. Steward. Did he join in cauſing him to be Proclaim'd, or did he ſeem to miſ-like it?

Calderwood. No, my Lord, he was always among the reſt.

Att. Gen. With your Lordſhip's Favour, the next Witneſs is *James Lindſey*, we deſire he may be ſworn.

L. Wintoun. My Council are preſent, pray allow my Council to ſpeak for me, I am not uſed to ſpeak in ſuch Aſſemblies.

Lindſey was Sworn accordingly.

L. H. Steward. Who do you call next, Gentlemen?

Att. Gen. James Lindſey is Sworn, we deſire he may give your Lordſhips an Account, whether he was at any time at *Moffett*, when the Pretender was Proclaim'd, and what ſhare my Lord *Wintoun* had in it? ——I believe it will be better to have ſomething for the Witneſs to ſtand upon; —— ſtay a little, till ſomething is brought to ſtand upon.

A Chair was brought to ſtand upon.

Sir *J. Jekyll.* Was you at *Moffett?*

Lindſey. Yes.

Sir *J. Jekyll.* What paſt there, and who was at that Place?

L. H. Steward. Keep your Face and direct your Anſwer this way; tho' the Gentlemen on the left Hand ask you Queſtions, keep your Face this way.

Lindſey. I ſaw ſeveral Gentlemen.

Sir *J. Jekyll.* But did you ſee my Lord *Wintoun* there?

Lindſey. Firſt I ſaw him there; the Second time I ſaw him at *Jedburg*, the Third time at *Kendall*, and the laſt at *Preſton.*

Sir *J. Jekyll.* You ſaw him at theſe places you have mentioned, what happened at either of theſe places?

Lindſey. The Firſt time I ſaw him, he was riding on a Grey Horſe, mounted with Sword and Piſtol; the Second time, ſitting with the Guard; and at *Kendall* on Horſeback, when he came out of Town I ſaw him riding on Horſeback; and at *Preſton*, I ſaw him riding at the Market-Place, with other Gentlemen along with him.

Sir *J. Jekyll.* Was there any Proclamation made at any of theſe places?

Lindſey. Yes, there was a Proclamation at *Jedburg*, they told me they Proclaim'd the Pretender.

Sir *J. Jekyll.* Did you hear the Proclamation?

Lindſey. I heard the Voice, but not the Words pronounced.

Sir *J. Jekyll.* Who aſſiſted at it?

Lindſey.

Lindſey. A great many Gentlemen on Horſeback.

Sir *J. Jekyll.* Was the Priſoner at the Bar there?

Lindſey. I did not ſee him.

Sir *J. Jekyll.* Was the Priſoner at the Bar at *Lancaſter?*

Lindſey. I do not know, I was not there.

Sir *J. Jekyll.* Was he at *Preſton?*

Lindſey. Yes, he was there.

Sir *J. Jekyll.* Was you preſent when they proclaimed the Pretender there?

Lindſey. I was ſtanding at a great Diſtance, but did not hear it, but ſaw the Army.

Sir *J. Jekyll.* From thoſe Places when you marched, in what manner did you march? In Squadrons?

Lindſey. Yes, in Squadrons.

Att. Gen Did the Noble Lord at the Bar command a Squadron?

Lindſey I did not know what his Lordſhip's Command was, he rode at the head of the firſt Squadron.

Att. Gen. Did he march along with the Forces?

Lindſey. I had very ſeldom Occaſion to ſee his Lordſhip. I believe he did.

Sir *J. Jekyll* Do you know any thing of raiſing Money?

Lindſey. I heard talk of it only.

Sir *J. Jekyll.* What Troops were with the Rebels?

Lindſey. I can't tell how many.

Sir *J. Jekyll* Do you remember any one Troop?

Lindſey. Yes, there was *Lockhart's.*

Sir *J Jekyll.* Any beſide?

Lindſey. There was one went by the Name of my Lord *Wintoun's*, but I knew it not.

Att. Gen. Who was there in that Troop of *Lockhart's?*

Lindſey. Several Gentlemen.

Att Gen. Was there any but Gentlemen?

Lindſey. Some private Men and Servants.

Att. Gen. Whoſe Servants?

Lindſey. The Captain's, Mr. *Lockart* had two or three himſelf.

Att. Gen Was there any other Servants?

Lindſey No, I don't think there was any other.

Att. Gen. Did you know the Troop called my Lord *Wintoun's?*

Lindſey I did not know it, there was one called his.

Att. Gen. Was there any Servants in it?

Lindſey. There was Servants in that Company.

Sir *J. Jekyll.* Were they armed with Sword and Piſtol?

Lindſey. Yes

Sir *J. Jekyll.* Was you at *Preſton* when the King's Forces inveſted it?

Lindſey. Yes.

Sir *J. Jekyll.* How did the Priſoner behave himſelf?

Lindſey I cannot tell.

Sir *J. Jekyll.* My Lords, We have done with our Examination of this Witneſs.

L. H. Steward. My Lord *Wintoun*, if you would ask this Witneſs any Queſtion, propoſe it, and it ſhall be asked.

After a conſiderable Pauſe,

Att. Gen. Our next Witneſs is *Elias Cammeron*, we deſire he may be Sworn.

He was Sworn accordingly.

Mr. Cowper. My Lords, We deſire he may be asked whether he was in the Rebels Army.

L. H. Steward. You hear the Queſtion; direct your Anſwer this way.

Cammeron. Yes, I was there.

Mr. Cowper. Under whoſe Command?

Cammeron. Under the Command of Capt. *Mackcleane*

Mr. Cowper. And in whoſe Regiment?

L. H Steward. Turn your Face this way, that your Voice may be heard.

Cammeron. My Lord *Charles Murray*'s Regiment.

L. H Steward. Whoſe Command was you under?

Cammeron. Under Capt. *Mackcleane.*

Sir *J. Jekyll.* In whoſe Regiment?

Cammeron. In my Lord *Charles Murray*'s Regiment.

Sir *J. Jekyll.* Will you give a general Account of what you know from the firſt time you came into the Army of the Rebels?

Cammeron. I joined them at *Moffett*, and then we proceeded to a place called *Lockmaben*; and then we marcht to *Duns*, from thence to *Kelſoe*; within two Miles of *Kelſoe* we met the Horſe. Then we went from *Kelſoe* to *Jedburg*, I ſaw my Lord *Wintoun* there; the next Day we reſted. Then we Marched; from *Langtown* to *Brampton*; from *Brampton* to *Penrith*; from *Penrith* to *Kirby-Lonſdale*; and from *Kirby-Lonſdale* to *Lancaſter*; where I ſaw my Lord *Wintoun* at the head of his Horſe with a Trumpet ſounding before him; I ſaw them March; we ſtaid a Day at *Lancaſter*, and the Horſe went into *Preſton* the next Day; either *Wedneſday* or *Thurſday* I ſaw my Lord *Wintoun*, and after the King's Forces were come I ſaw my Lord *Wintoun* with other Lords.

Mr. Cowper. You have mentioned proclaiming the Pretender at one or two Towns, pray give an Account at how many Places you obſerved that he was proclaimed?

Cammeron. I heard him proclaimed at *Duns*, at *Kelſoe*, and at *Lancaſter*.

Mr. Cowper. I deſire to know if at any of theſe Places you obſerved the Priſoner, my Lord *Wintoun?*

Cammeron. At *Lancaſter* I did obſerve him to go into the Ring when they were going to Proclaim him, but at the time of the Proclamation I did not ſee him, being in the outward part of the Ring.

Att. Gen Pleaſe to acquaint my Lords, whether in your March you took any Priſoners

Cammeron. When we were near *Penrith*, we took a great many Priſoners. I did not ſee them taken.

Att. Gen. Was the Priſoner at the Bar with you in that March?

Cammeron. I can't really Determine. I ſaw him there.

Att. Gen Where did you ſee him firſt?

Cammeron. At *Kelſoe*, when the Foot joined us.

Att. Gen. Where did you take the Priſoners?

Cammeron. At *Penrith*

Att. Gen. Did the Noble Lord at the Bar ever leave you after he joined you?

Cammeron. I heard he was not for coming into *England*. I only heard this by Report.

Sir *J. Jekyll.* Was you at *Seaton* Houſe?

Cammeron. Yes

Sir *J. Jekyll.* Was my Lord *Wintoun* there?

Cammeron. No, only Brigadier *Mackintoſh* and the Foot.

Sir *J. Jekyll.* What time did they come to *Seaton* Houſe?

Cammeron. On *Saturday* to my beſt Remembrance, they were at *Seaton* Houſe; then the Duke of *Argyle* returned back, and that Night about Six or Seven a Clock we retreated to *Seaton* Houſe, and ſtaid there *Sunday*, *Monday* and *Tueſday*.

Att.

Att. Gen. At the time the Highlanders came to *Seaton* Houſe, was this Lord there?

Cammeron. No, I do not know that he was.

Att. Gen. Do you know any thing of the publick Revenues being gather'd at *Duns*, *Bromton* and *Appleby*?

Cammeron. Yes.

Att. Gen. Did they give any Receipts?

Cammeron. Yes, they gave Receipts. I ſaw one which was to this Effect: After the Year and Date, then, Receiv'd ſuch a Sum of Mony as Exciſe-Duty; due from ſuch a Perſon, to ſuch a Perſon.

Att. Gen. During the time the King's Forces attack'd *Preſton*, what did you obſerve my Lord *Wintoun* do?

Cammeron. What I obſerved of my Lord *Wintoun*, was this: I was there by the Church-yard, there I ſaw my Lord *Wintoun* in the Church-yard, with my Lord *Kenmure* and *Derwentwater* at the Time of the Action, but I did not ſee him in the Action, and whether he had Piſtols or not I can't be poſitive.

Att. Gen. Was there any Perſons at the Market-Place?

Cammeron. I was not at the Market-Place.

Att. Gen. You was at the Church-yard?

Cammeron. Yes.

Sir *J. Jekyll.* When you obſerved my Lord *Wintoun*, what did you ſee him do?

Cammeron. I obſerved nothing, but he was like the reſt, Riding to and fro with the reſt.

Sir *J. Jekyll.* Did you ſee him aſſiſting at the Proclamation of the Pretender at *Preſton*?

Cammeron. I ſaw him go into the Ring with the reſt, but I did not ſee him at the time of the Proclamation.

L. H. Steward. I believe in this Narration his Voice did not reach this End of the Court; therefore if he hath ſaid any thing proper to be taken Notice of, you will do well to have it over again.

Att. Gen. We ask him whether he knew the Noble Lord to be at any of thoſe Places aſſiſting at proclaiming the Pretender?

Cammeron. I did not obſerve him but at *Lancaſter*.

Att. Gen. What happened there?

Cammeron. They proclaimed the Pretender there, and I ſaw him go into the Ring

Att. Gen. But did not obſerve him at the time of proclaiming the Pretender?

Cammeron. I ſaw him go into the Market-Place with the reſt.

L. H. Steward. You ſaw him go in when the reſt went in to proclaim the Pretender?

Cammeron. Yes.

Att. Gen. Did he then ride at the Head of the *Scotch* Horſe?

Cammeron. Yes, He rid at the Head of ſome Horſe, and a Trumpet ſounding before him.

Att. Gen. Was that the time when the Pretender was proclaimed at *Lancaſter*?

Cammeron. Yes

Att. Gen. Whether had my Lord his Sword by his Side, or had he it drawn?

Cammeron. Really I cannot be poſitive to that.

L. H. Steward. My Lord *Wintoun*, will you ask this Witneſs any Queſtion?

L. Wintoun. My Lords, I be not prepared, ſo I hope your Lordſhips will do me Juſtice; I was not prepared for my Tryal; I did not think it would come on ſo ſoon, my material Witneſſes not being come up, and therefore

therefore I hope you will do me Juſtice, and not make uſe of *Cooper*-Law, as we uſed to ſay in our Country, Hang a Man firſt, and then judge him.

L. H. Steward. Did you hear? My Lord *Wintoun*, pleaſe to ſpeak it again.

L. Wintoun. I ſaid that I was not prepared for my Tryal; I did not think it would come on ſo ſoon. Some Gentlemen are juſt come up; pleaſe your Lordſhips to let me know what they ſay, that I may be the better able to make my Defence.

L. H. Steward. If your Lordſhip will ask this Witneſs any Queſtion now is your Time; but if what you are ſaying is your Defence, you ſhould reſerve that 'till the Commons have done.

Robert Patten is called and ſworn.

Proclamation made for Silence as uſual.

Sir *W. Thomſon.* With your Lordſhips Permiſſion I beg Leave to ask this Witneſs, whether at any time he was in Company with theſe Rebels, and when he firſt joined them?

Patten. I joined them on the 20th of *October*, at *Wooler*.

Sir *W. Thomſon.* Pray Sir will you give an Account what paſt from that Time you joined them 'till they were taken.

Patten. I remember from *Wooler* we march'd to *Kelſoe*.

Sir *W. Thomſon.* Did you ſee my Lord *Wintoun* at *Wooler*?

Patten. I can't ſay I did.

Sir *W. Thomſon.* Did you ſee him at *Kelſoe*?

Patten. I ſaw him when the Proclamation was there.

Sir *W. Thomſon.* What Proclamation?

Patten. To proclaim the Pretender.

Sir *W. Thomſon.* Was my Lord *Wintoun* preſent?

Patten Yes.

Sir *W. Thomſon.* In what Manner?

Patten. He appeared among the reſt of the Gentlemen.

Sir *W. Thomſon?* Was he armed?

Patten. Only his Sword, that I ſaw.

Sir *W. Thomſon.* Pray what paſs'd afterwards?

Patten We came to *Kelſoe*, and from thence we went to *Jedburg*.

Sir *W. Thomſon.* Where did you go?

Patten. To *Jedburg*.

Sir *W. Thomſon.* What paſs'd there?

Patten. After they came to *Jedburg* they were alarmed by a Party they thought of the King's Forces, but it happened to be ſome of their own Party.

Sir *W. Thomſon.* What happened on that Occaſion?

Patten. I ſaw the Lords, and among the reſt my Lord *Wintoun*, at the Head of ſome Horſemen there drawn up.

Sir *W. Thomſon.* In what Manner?

Patten. The Earl of *Wintoun* was drawn up with his Men, and the *Scotch* Lords with their Men.

Sir *W. Thomſon.* With what Intent?

Patten. They apprehended General *Carpenter* with the King's Forces was coming to attack them.

Sir *W. Thomſon.* You ſay my Lord *Wintoun* march'd out at the Head of ſome Horſemen?

Patten I can't ſay I ſaw him march out, but I ſaw him at the Head of ſome Horſe.

Sir *W. Thomſon.* What happen'd afterwards?

Patten. They returned to *Jedburg* and ſtay'd all Day, and the next Day they march'd to *Hawick*.

Sir *W. Thomſon.* What happened at *Hawick*?

Patten At Midnight we were again alarmed with a Party.

Sir *J.*

Sir *W. Thomſon.* What happen'd upon that?

Patten. I ſaw my Lord *Wintoun* in the Street.

Sir *W. Thomſon.* Was there any Preparation made for Defence?

Patten. Yes, they were going out to defend themſelves.

Sir *W. Thomſon.* You ſaw my Lord *Wintoun* there?

Patten. Yes.

Sir *W. Thomſon.* In what manner?

Patten. He had his Sword by his Side.

Sir *W. Thomſon.* When you went from that place, whither did you go then?

Patten. We went to *Langholm.*

Sir *W. Thomſon.* What paſs'd there?

Patten. We continued there till next Morning, when we conſulted whether to March for *England* or for *Scotland*; a Party of Horſe went for *Dumfreiſe.* The Highlanders, a great part of them went off there, and would not March for *England.*

Sir *W. Thomſon.* Was my Lord *Wintoun* with them at their going off?

Patten. I ſaw my Lord *Wintoun* go off, and come up again: I ſpoke to my Lord upon that account.

Sir *W. Thomſon.* What did his Lordſhip ſay?

Patten. Nothing material, but ask'd me if I knew the Country.

Sir *W. Thomſon.* When the Foot went off at *Langholm*, did my Lord go to them?

Patten. I ſaw him go up to them, and make a Halt.

Sir *W. Thomſon.* But he came back again?

Patten. Yes.

Sir *W. Thomſon.* At that time, if my Lord had had any Inclination to it, whether he might not have gone off?

Patten. Yes. I can't tell my Lord's Inclination, but any body might have gone off, there was no Reſtraint upon him.

Sir *W. Thomſon.* Whither did you March from *Langholm*?

Patten. To *Langtown.*

Sir *W. Thomſon.* Did any thing happen at *Langtown*?

Patten. We march'd through.

Sir *W. Thomſon.* Whither did you go then?

Patten. To *Brampton.*

Sir *W. Thomſon.* Whither from thence?

Patten. To *Penrith.*

Sir *W. Thomſon.* What happened there?

Patten. There was the *Poſſe Comitatus*, whether that *Poſſe Comitatus* were the Militia I can't tell; they were got together, and upon our advancing they diſpers'd themſelves.

Sir *W. Thomſon.* Where was my Lord *Wintoun* then?

Patten. I ſaw him among the *Scotch* Lords there after his uſual manner, on Horſeback, with Sword and Piſtols.

Sir *W. Thomſon.* Was his Sword drawn?

Patten. No.

Sir *W. Thomſon.* Whither did they go then?

Patten. They went to *Appleby.*

Sir *W. Thomſon.* What paſſed at *Appleby*?

Patten. They went from *Appleby* to *Kendall.*

Sir *W. Thomſon.* What happened there?

Patten. A Proclamation was read, as at moſt of the Towns.

Sir *W. Thomſon.* Did you ſee my Lord *Wintoun* at any of thoſe Proclamations?

Patten. No, I did not.

Sir *W. Thomſon.* Where did you go then?

Patten. To *Kirby-Lonſdale.*

Sir *W Thomſon.* Did any thing happen remarkable there?

Patten. I dined with the *Scotch* Lords at *Kirby.*

Sir *W. Thomſon.* What happen'd there? and what Healths were drank there?

Patten. The Pretender's Health, and Succeſs to our Cauſe, that was the uſual Health.

Sir *W. Thomſon.* Was my Lord *Wintoun* there?

Patten. Yes, there was my Lord *Kenmure*, *Carnwath*, and the other Lords.

Sir *W. Thomſon.* Did he drink the Health among the reſt?

Patten. All the Table did.

Sir *W. Thomſon.* From thence whither did you go?

Patten. To *Lancaſter.*

Sir *J. Jekyll.* At the place where you drank Healths, was there any other remarkable Health?

Patten. The uſual Health was good Succeſs to the Cauſe in hand.

L. H. Steward. Who drank that Health?

Patten. All the Company.

L. H. Steward. Who was in Company? was the Priſoner at the Bar in Company?

Patten. Yes, he was.

Sir *W. Thomſon.* When you came to *Lancaſter*, in what manner did you enter that Town?

Patten. We entred that Town more regularly than any other we had marched thro'.

Sir *W. Thomſon.* After what manner?

Patten. They march'd into the Town with their Swords drawn, and the Highlanders were drawn round the Croſs; the Gentlemen marched into the Town on Horſeback; the Pretender was Proclaimed there.

Sir *W. Thomſon.* You was by when the Pretender was Proclaimed?

Patten. Yes.

Sir *W. Thomſon.* Was my Lord *Wintoun* there?

Patten. I can't ſay I ſaw him there: I ſaw him in the Town at the head of ſome Horſe with his Sword drawn.

Sir *W. Thomſon.* Was there any Cannon ſeized at *Lancaſter*?

Patten. Some Pieces of Cannon were ſeized.

Sir *W. Thomſon.* What did you do with the Cannon?

Patten. We carried them with us to *Preſton.*

Sir *W. Thomſon.* When there were Prayers in the Pariſh Church at *Lancaſter*, who was prayed for?

Patten. The Pretender.

Sir *W Thomſon.* Do you know who were preſent?

Patten. A great many.

Sir *W. Thomſon.* Was the Lord *Wintoun* there?

Patten. I can't tell.

Sir *W. Thomſon.* Did you obſerve at any time any Force or Compulſion uſed to detain my Lord *Wintoun*?

Patten. No, none at all.

Sir *W. Thomſon.* Did he ſhow any Uneaſineſs, or any Backwardneſs to go with them?

Patten. I can't be judge of my Lord's Uneaſineſs, it did not appear ſo.

Sir *W. Thomſon.* By whoſe Directions was the Prayer for the Pretender?

Patten. By Order of Mr. *Forſter.*

Sir *W. Thomſon.* My Lords, we have done with this Witneſs.

L. H. Steward. My Lord *Wintoun*, will you pleaſe to ask this Witneſs any Queſtion?

L. Wintoun. No

Att. Gen. My Lords, we deſire to call my Lord *Forreſter.*

Then a Chair was placed for Lord *Forreſter* near the Clerks Table.

And the Oath was adminiſtred to him by the Lord High Steward.

Sir *J. Jekyll.* My Lords, we beg leave to ask this noble Lord a Queſtion or two: Was your Lordſhip at *Preſton?*

L. Forreſter. Yes, my Lords.

L. H. Steward. Your Lordſhip will pleaſe to raiſe your Voice.

L. Forreſter. I was there with the King's Troops, and had the Honour to Command Brigadier *Preſton*'s Regiment. We came before *Preſton* on *Saturday* the 12th of *November.*

Att. Gen. Will your Lordſhip acquaint my Lords what paſs'd at *Preſton* when you was there; whether you was by at *Preſton* when the King's Forces

attack'd

attack'd it, and whether it was defended by the Rebels, and what elſe paſſed there.

L. Forreſter. I was there, and commanded one of the Attacks under Brigadier *Honywood.*

Att. Gen. Was the Town defended by the Rebels, and were any of the King's Officers and Soldiers killed?

L. Forreſter. Yes, a great many.

Att. Gen. Pleaſe to give an Account what Number.

L. Forreſter. We loſt a great many.

Att. Gen. Can you gueſs the Number?

L. Forreſter. No, I can't exactly tell: A good many; we had 'twixt Sixty and Seventy of the Regiment I had the Honour to Command killed and wounded.

Att. Gen. How many were killed?

L. Forreſter. About thirty were killed dead on the Spot.

Att. Gen. How long did that Attack laſt, before they deſired to Capitulate?

L. Forreſter. From *Saturday* till *Sunday* Morning between one and two a Clock.

Sir *J. Jekyll.* I think your Lordſhip had a Command to take Poſſeſſion of the Town?

L. Forreſter. Yes; I took Poſſeſſion of the Church-yard *Monday* Morning about Six a Clock.

Sir *J. Jekyll.* Will you pleaſe to give an Account of what you know of the noble Lord at the Bar when the Town ſurrendred.

L. Forreſter. The Town ſurrender'd at ſix a Clock in the Morning; I came into the Church-yard and took Poſſeſſion of it; then I went to the *Mitre Tavern*, where that Lord and the reſt of the Lords were; I diſarmed them.

Att. Gen. What Arms did my Lord *Wintoun* deliver up at that time?

L. Forreſter. Two Caſes of Piſtols.

Sir *J. Jekyll.* If my Lord hath a mind to ask any Queſtion of the noble Lord that hath been examined, we deſire he may do it.

L. H. Steward. My Lord *Wintoun*, will you be pleaſed to ask this noble Lord any Queſtion concerning this matter at *Preſton?*

L. Wintoun. I had no Arms: Pleaſe to ask him whether I had Sword or Piſtol in my Hand.

L. H. Steward. Take my Lord's Queſtion in Writing.

Then the Clerk went and took it.

Queſtion. Whether the Arms your Lordſhip mentioned to have been delivered to you, whether he had the Arms then about him, or his Lordſhip did not ſay they were in the Stable.

L. Forreſter. He brought the Arms to me himſelf, and gave them me out of his own Hands.

L. H. Steward. My Lord ſays you brought the Arms to him your ſelf, and gave them him out of your own Hands.

L. Forreſter. I got ſo many of them that I ſhould not have made any Diſtinction of his from the reſt, but that I remember he gave me his Arms out of his own Hands, and deſired me to give them to my Lord *Kimmergem.*

L. H. Steward. You deſired my Lord *Forreſter* to give them to my Lord *Kimmergem.*

L. H. Steward. Another Queſtion propoſed is, Whether my Lord *Wintoun* did not give Orders to his Servant to bring the Arms out of the Stable, and to give them my Lord *Kimmergem?*

L. Forreſter. I believe he did bring them out of the Stable.

L. H. Steward. My Lord believes you did bring them out of the Stable.

L. Wintoun. I deſire he may be asked whether I had a Sword about me.

L. H. Steward. My Lord *Forreſter*, the Queſtion is, Whether your Lordſhip found a Sword about my Lord *Wintoun?*

L. Forreſter. I did not ſee any Sword that he had; he had a great Coat on, and might have had a Sword under that, but I ſaw none.

L. H. Steward. My Lord *Forreſter*, did the Priſoner at the Bar deliver himſelf and his Arms to your Lordſhip as one of thoſe in the Surrender?

L. Forreſter. I took it ſo.

Sir *J. Jekyll.* We beg leave to call General *Carpenter*, and deſire he may be Sworn in his Place, and give your Lordſhips his Evidence.

General

General *Carpenter* was Sworn in his place.

Proclamation for Silence as uſual.

Sir *J. Jekyll.* Mr. *Carpenter*, pleaſe to give my Lords an Account when you come to *Preſton*, and what happened there.

Gen. *Carpenter.* I came to *Preſton* on *Sunday* the 13th of *November* laſt: The Troops under Mr. *Wills* had been there the Afternoon before. I got there about Ten a Clock on *Sunday* Morning, with Three Regiments of Dragoons; and there had been no Intercourſe nor Meſſage paſs'd before I came.

Att. Gen. Pleaſe to inform my Lords what paſs'd there after you came to *Preſton.*

Gen. *Carpenter.* After I came, the Rebels ſent out to know what Terms they might expect, and were anſwer'd None but at Diſcretion. They ſoon after ſent out one Captain *Dalzell*, to deſire a Ceſſation till next Morning; upon which I ſent in Colonel *Churchill* to tell them, I agreed to a Ceſſation, provided they ſent out an *Engliſh* Lord and a *Scotch* Lord as Hoſtages: I named my Lord *Derwentwater* and my Lord *Kenmure*. Captain *Dalzell* ſaid he thought my Lord *Kenmure* would not come out. I named then Brigadier *Mackintoſh*: He alſo thought he would not come out. I was unwilling to make great Difficulties, it growing towards Night; and ſaid either of the *Mackintoſh's* and an *Engliſh* Lord: And he brought out my Lord *Derwentwater* and Colonel *Mackintoſh* as Hoſtages, that they ſhould make no Attempt to eſcape, nor any Works for Defence in the Town.

Att. Gen. Pray, Sir, acquaint my Lords who you ſent in with Colonel *Churchill.*

Gen. *Carpenter.* Colonel *Cotten.*

Att. Gen. When did they agree to the Surrender of the Place?

Gen. *Carpenter.* Not till the next Morning. The Hoſtages were, that none ſhould attempt to eſcape, nor any Defences ſhould be made in the Town till the next Morning, at which time they would determine whether they would ſurrender or not.

Att. Gen. I deſire you to acquaint my Lords whether theſe were all the Terms offered, or whether there was any Hopes of Mercy given them.

Gen. *Carpenter.* I gave them none at all my ſelf, and it is very unlikely any Body elſe ſhould: I commanded in Chief His Majeſty's Forces there: No Body ought to have done it; and if any Officer whatſoever took upon him ſo to do without my Order or Leave, it was very unanſwerable by the Rules and Diſcipline of War, and what he cannot anſwer: I hope no Body did: I am ſure I gave no ſuch Directions: Colonel *Churchill* can acquaint your Lordſhips whether I directed him to mention any other Conditions to them than at Diſcretion.

Sir *J. Jekyll.* Did you hear any other Officer give them any Hope or Expectation of Mercy?

Gen. *Carpenter.* No, I did not.

Sir *J. Jekyll.* If my Lord *Wintoun* hath any Queſtions to ask this Honourable Perſon, he may do it.

L. H. Steward. My Lord *Wintoun*, now is your time if you'll ask any Queſtion of General *Carpenter.*

L. Wintoun. Whether I was concerned in making any——

L. H. Steward. I don't hear the Queſtion——Then the Clerk was ſent down to take it from him in Writing.

And the Queſtion being brought up to the Lord High Steward by the Clerk,

L. H. Steward. The Queſtion my Lord asks is, Whether he was concern'd in making any Capitulation, or knew any thing about it?

Gen. *Carpenter.* Not that I know of; it is impoſſible for me to know, except by Hearſay: He was not the Perſon treated with, I treated with my Lord *Derwentwater* and one of the *Mackintoſh's*, ſo that I know nothing of his being concerned in any manner of Treaty.

L. H. Steward. You hear the Anſwer.

Sir *J. Jekyll.* We beg leave to call General *Wills.*

L. Wintoun. I deſire to ask my Lord *Forreſter* a Queſtion.

L. H. Steward. My Lord *Wintoun* deſires to propoſe a Queſtion to my Lord *Forreſter.*

Sir *J. Jekyll.* Tho' that be out of Method, yet we don't oppoſe it.

L. H. Steward. Bring up the Queſtion. My Lord, the Queſtion my Lord

Wintoun

Wintoun proposes is, Whether he had any Sword or Arms when he first saw your Lordship at *Preston*?

L. Forrester. I don't remember I had a Sword from him; I can't tell whether he had a Sword about him, for he had a great Coat on; but I remember I took none from him, I had only the two Cases of Pistols which he gave me.

L. H. Steward. He could not tell whether you had a Sword about you, you had a great Coat that he could not well see; but he remembers he took none from you, only the two Cases of Pistols which you gave him.

L. H. Steward. Who do you call next?

Sir *J. Jekyll.* My Lords, we desire that General *Wills* may be Sworn.

He was Sworn accordingly.

Sir *J. Jekyll.* Mr. *Wills*, pray give my Lords an Account when you came before the Town of *Preston*, and what happen'd there.

Gen. *Wills.* My Lords, I had the Honour to Command the King's Troops that attack'd the Rebels at *Preston*; I came before that Town the 12th of *November* last about One a Clock, and ordered two Attacks upon the Town; that Attack which lead to *Wiggin* was Commanded by Brigadier *Honywood*, who beat the Rebels from their first Barricade, and took Possession of some of the Houses in the Town; the other Attack which lead to *Lancaster* was Commanded by Brigadier *Dormer*, who lodg'd his Troops nigh the Barricade of the Rebels. The next Day, about Two a Clock, Mr. *Forster* sent out one Mr. *Oxborough*, an *Irish* Man, offering to lay down their Arms and submit themselves, and hoped that I wou'd recommend them to the King for Mercy; which I refused, and told them I wou'd not treat with Rebels, for that they had kill'd several of the King's Subjects, and that they must expect to undergo the same Fate; upon which he said, That as I was an Officer, and a Man of Honour, he hoped I wou'd shew Mercy to People who were willing to submit: Upon which I told them all I would do for them was, that if they laid down their Arms, and submitted Prisoners at Discretion, I would prevent the Soldiers from cutting them to pieces till I had further Orders, and that I would give them but one Hour to consider of it; and sent him back again into the Town to acquaint *Forster* of it; before the Hour was expired they sent out Mr. *Dalzell*, Brother to the Earl of *Carnwath*, and he wanted Terms for the *Scotch*. My Answer was, that I wou'd not treat with Rebels, nor give them any other Terms than what I had before offer'd them: Upon which it was desired that I would grant further time till Seven a Clock next Day, to consult the best Method of delivering themselves up. I agreed to grant them the time desired, provided that they threw up no new Intrenchments in the Streets, nor suffer'd any of their People to escape, and that they sent out the Chief of the *English* and *Scotch* as Hostages for the Performance, and I sent in Colonel *Cotten* to bring them out, who brought out the Earl of *Derwentwater* and Mr. *Mackintosh*. The next Day about Seven a Clock Mr. *Forster* sent out to let me know that they were willing to give themselves up Prisoners at Discretion, as I had demanded. Mr. *Mackintosh* being by when the Message was brought, said he could not answer that the *Scotch* would Surrender in that manner, for that the *Scotch* were People of desperate Fortunes, and that he had been a Soldier himself, and knew what it was to be a Prisoner at Discretion; upon which I said, Go back to your People again, and I will attack the Town, and the Consequence will be I will not spare one Man of you. *Mackintosh* went back, but came running out immediately again, and said, that the Lord *Kenmure*, and the rest of the Noblemen, with his Brother, would Surrender in like manner with the *English*.

Sir *J. Jekyll.* When the Attack was made by the King's Forces, whether any, and how many were killed?

Gen. *Wills.* I believe between Sixty and Seventy, but few of the Horse; there were killed and wounded about a hundred and thirty.

Att. Gen. If you please to acquaint my Lords whether any of the Rebels came and treated with you, or if you gave them any Encouragement to hope for Mercy.

Gen. *Wills.* All the Terms I gave them was, that I would save their Lives from the Soldiers 'till further Orders, if they surrender'd at Discretion. I desire to explain the Meaning of surrendring at Discretion, which is, then it is in our

 Power

Power to cut them all to Peices; but I would give them their Lives till further Order; for I could have cut them to Peices immediately after they are made Prisoners at Discretion, by the Rules of War; and if they did not comply I would renew the Attack, and not spare a Man.

L. H. Steward. You told them that if they did not comply you would renew the Assault?

Gen. *Wills.* Yes; and not spare a Man of them.

Sir *J. Jekyll.* Did you give your Officers any Directions to give any other Terms?

Gen. *Wills.* No, I did not.

L. H. Steward. Then you gave no Directions to any other Officer to give other Terms than you your self had offer'd?

Gen. *Wills.* No, I did not.

Mr. *Cowper.* Was there any other but these two, Colonel *Churchill* and Colonel *Cotten*, sent in by you, or by General *Carpenter*?

Gen. *Wills.* Yes, Colonel *Nassau*, to bid our own People forbear firing.

Mr. *Cowper.* Had Colonel *Nassau* any Authority to treat?

Gen. *Wills.* No, he went in only to bid our Troops to forbear firing, and order Colonel *Cotten* to come out with the Hostages.

Sir *J. Jekyll.* You say the Rebels desired you to Recommend them to the King's Mercy? Who made that Proposition?

Gen. *Wills.* One *Oxborough.*

Sir *J. Jekyll.* Had you any other Proposition by any other?

Gen. *Wills.* Mr. *Dalzell*, Brother to my Lord *Carnwath*, for the *Scotch.* I refused him likewise, and told him I wou'd treat with no Rebels, nor give them any Quarter.

Sir *J. Jekyll.* If my Lord at the Bar will ask this Honourable Gentleman any Question, now is the time.

L. H. Steward. My Lord *Wintoun*, the Clerk is sent down to you again; if you have any Question he will take it.

The Clerk return'd with the Question to my Lord High Steward.

L. H. Steward. The Question my Lord proposes to General *Wills* is, Whether you, General *Wills*, gave any Summons to Surrender before you made the first Attack; or if you did not make the Attack without any Summons at all?

Gen. *Wills.* When I was viewing the Town they shot two of my Dragoons, and I did not Summons them.

Another Question taken by the Clerk, and brought up.

L. H. Steward. Another Question my Lord desires to be ask'd is, Whether you offer'd to prevent the Forces from falling upon the Gentlemen at *Preston*, provided they surrendred at Discretion.

Gen. *Wills.* Before ever I had drawn up the Troops——

L. H. Steward. The Question is, Whether you offered to prevent the Forces falling upon the Gentlemen at *Preston*, provided they surrendred at Discretion?

Gen. *Wills.* Yes, my Lords, I did hinder the Troops from falling upon them after they offer'd to Surrender.

Another Question brought up by the Clerk.

L. H. Steward. General *Wills*, my Lord desires you may be ask'd what you know, or have been inform'd of his Lordship's being against coming to *England*, or of my Lord's being against fighting with any of yours, or General *Carpenter*'s Troops.

Gen. *Wills.* I never knew my Lord *Wintoun*, nor saw him till four Days after he was taken at *Preston*, so that I can say nothing to that I don't know any thing of.

L. Wintoun. I desire General *Carpenter* may be asked the same Question.

L. H. Steward. Do you know any thing, or have heard that my Lord *Wintoun* was against coming into *England*, or fighting the King's Forces?

Gen. *Carpenter.* My Lords, I heard that at *Jedburg* they held a Council of War, the chief Officers, *&c.* this is only Hearsay, I speak not of my own Knowledge.

Sir *J. Jekyll.* For the sake of Evidence it is incumbent on us to desire that my Lord confines himself to ask the General what he knows, and not to what he heard said.

All

Att. Gen. We have two Witneſſes more, the Colonels that were ſent into the Town by the two Generals, Colonel *Churchill* and Colonel *Cotten*.

Colonel *Churchill* was Sworn.

Mr. *Cowper*. The Queſtion propos'd is, Whether you was ſent into *Preſton*, and by whom?

Col. *Churchill*. I came up to *Preſton* on *Sunday* Morning, under General *Carpenter*'s Command, about ten a Clock; about one they ſent out to Capitulate; about five I was ſent in by General *Carpenter*, their Requeſt being, that they might have time till next Day to conſider whether they ſhould ſurrender or not. My Directions were, they ſhould have that, upon Condition they ſent out Hoſtages that none of them ſhould attempt to eſcape, and that no Defence ſhould be made in the Town. The People named to me by General *Carpenter* were my Lord *Derwentwater* or my Lord *Widdrington*, and my Lord *Kenmure* or *Mackintoſh* was mentioned for the *Scotch*. I directed them to ſend the Hoſtages to me. They could not find my Lord *Derwentwater* nor *Widdrington*, and *Mackintoſh* was gone to Bed. A little before eight I went with them, and told them the Terms I was to deliver to them, that they were to throw up no Works to fortifie themſelves, and ſhould anſwer for the People, that none of them ſhould eſcape. My Lord *Derwentwater* and *Mackintoſh* went out with me: I carried them to the two Generals there, and at ſeven a Clock next Morning they ſurrendred themſelves.

Mr. *Cowper*. Pleaſe to give me leave to ask you, whether you had any Commiſſion from the General that ſent you into the Town, or whether you of yourſelf, without ſuch Commiſſion, gave them any Hopes of Mercy?

Col. *Churchill*. I had not any Power to do it, and was ſo far from doing it, that I don't remember a ſingle Syllable was mentioned either on our ſide or theirs about it.

Mr. *Cowper*. Did you at any other time hear any other Officers give them ſuch Aſſurance?

Col. *Churchill*. I never heard a ſingle Word like it.

Att. Gen. Who did you treat with?

Col. *Churchill*. The Body I treated with carried me to Mr. *Forſter*, and then to my Lord *Kenmure*. I deliver'd my Meſſage to Mr. *Forſter*. I did not know any *Scotch* Lord but *Kenmure*.

Att. Gen. Who was preſent beſides my Lord *Kenmure*?

Col. *Churchill*. I ſaw a great many, but I did not know particularly any.

Att. Gen. The next is Colonel *Cotten*, who was ſent in by General *Wills*. We deſire Colonel *Cotten* may be ſworn.

He was ſworn accordingly.

Att. Gen. We deſire to ask Colonel *Cotten*, whether he was ſent into *Preſton* by General *Wills*, and what Inſtructions were given him when he went in?

Colonel *Cotten*. I was ſent into the Town by General *Wills* at their Deſire, they having Terms to offer: I told them we could give them none; they urged they had Diſputes amongſt the *Scotch* and *Engliſh*, and deſired till the next Morning to reconcile them. General *Wills* ſent me again into the Town to allow them that time, provided that the Lords wou'd give their Words that they would throw up no Works for their Defence from that time, and do their utmoſt that none of their People ſhou'd make their Eſcape; and the Lords did give their Words, and the Lord at the Bar was preſent.

Att. Gen. I deſire you would acquaint my Lords upon what Terms they ſurrendered.

Col. *Cotten*. I had no Power from Mr. *Wills* to promiſe them any Terms, nor I did not.

Sir *J. Jekyll*. Did you acquaint them you had no Power to offer them any Terms?

Col. *Cotten*. I did.

Att. Gen. Who did you acquaint?

Col. *Cotten*. All the Lords, and the People that had any Influence over the common Men.

Sir *J. Jekyll*. Was the noble Lord at the Bar amongſt them?

Col. *Cotten*. He was.

Sir

Sir *J. Jekyll.* Was there any Overtures made of obtaining the King's Mercy?

Col. *Cotten.* I had no ſuch Orders from Mr. *Wills*, and I did not offer it neither directly or indirectly.

Att. Gen. My Lords, I think it hath been deſired to call Brigadier *Munden*, who ſpeaks only as to the Attack; and I think, my Lords, if this Evidence need to be corroborated, we ſhall deſire to call another Evidence who was with General *Wills* all the time the Overtures paſs'd.

Sir *J. Jekyll.* My Lords, if the Lord at the Bar hath any Queſtion to ask Colonel *Cotten*, we deſire he may be indulged.

L. Wintoun. I would know whether they did not take Priſoners and kill them, notwithſtanding the Capitulation?

L. H. Steward. The Queſtion my Lord deſires may be ask'd is, Whether you did not take Priſoners and kill them, notwithſtanding the Capitulation?

Col. *Cotton.* My Lords, upon my coming out of the Town, that the Lords had engaged to prevent any of their People making their Eſcape, we were alarm'd with an Account that ſeveral were attempting it, and about Six of thoſe who were endeavouring to eſcape were cut to Pieces. Upon this Breach of their Parole Colonel *Churchill* and my ſelf were ſent in to demand Hoſtages, and brought out Lord *Derwentwater* and Mr. *Mackintoſh*.

Att. Gen. We deſire Brigadier *Munden* may be Sworn.

He was accordingly called and ſworn.

Att. Gen. We deſire Brigadier *Munden* may be asked whether he was ſent with theſe two Colonels into the Town, and what Directions was given them.

L. H. Steward. You hear the Queſtion, pleaſe to give your Anſwer.

Brigadier *Munden.* I humbly apprehend I am called to give ſome Account of the Attack at *Preſton*, which I will do in as few Words as I can. I am firſt to tell your Lordſhips, after the Rebels demanded an Audience of General *Wills*, their firſt Demand was for Terms: The Anſwer they received was, That General *Wills* would not treat with Rebels, but if they ſurrendered as Priſoners at Diſcretion, they ſhould have their Lives ſpared 'till his Majeſty's Pleaſure was known. They ask'd if thoſe were the only Terms, It was anſwered Yes. Afterwards this Gentleman went into the Town, who had an Hour's time allowed him to conſider of it. I remember his inſiſting upon Terms, but all the Anſwer Mr. *Wills* gave them was, If he had Inclination, he had no Power to give them any, otherwiſe than ſaving their Lives 'till his Majeſty's Pleaſure was further known. If they expected other Terms, they might return into the Town immediately, and he would attack them and cut them to Pieces. After this the Gentleman went into the Town. My Lord *Derwentwater* and Mr. *Mackintoſh* came out to us. Mr. *Mackintoſh* and my Lord *Derwentwater*, and I heard them frequently repeat their Requeſt to the General for Terms, and I heard *Mackintoſh* give a particular Account of the Bravery and Hardineſs of their Troops. Mr. *Wills* told him he might have proved and tried them if he had pleaſed, and then it would have been ſeen whether the King's Troops or a Parcel of Rebels would have acted the braver Part. Mr. *Wills* received them with the utmoſt Deteſtation and Contempt, and gave them no Hope of Mercy either directly or indirectly.

Att. Gen. Did you ever hear any other of the Officers offer them any other Terms?

Brig. *Munden.* No, I did not hear any. I heard the Inſtructions that were given to Colonel *Cotten* by General *Wills*; and when Mr. *Cotten* came out of the Town the third time, which was when he went to take their Parole of Honour.

Sir *J. Jekyll.* Did my Lord *Wintoun* come to give his Parole?

Brig. *Munden.* When Colonel *Cotten* came out, I very well remember he ſaid he had received his Parole of Honour among the reſt.

Sir *J. Jekyll.* If my Lord at the Bar hath any mind to ask this honourable Perſon, Brigadier *Munden*, any further Queſtions, we have done with him.

L. H. Steward. My Lord *Wintoun*, do you ask this Witneſs any Queſtion?

L. Wintoun. No.

Sir

Sir *F. Jekyll.* We that are entruſted by the Houſe of Commons have no more Evidence to offer to your Lordſhips.

L. H. Steward. My Lord *Wintoun*, the Gentlemen of the Houſe of Commons have done with the Evidence they propoſed to call againſt you, therefore it is your Lordſhip's time to open what Evidence you have, or if you have made any Obſervations on the Evidence given againſt you, to deliver them, or to call your own Witneſſes— Take your own Method.

Proclamation was made for Silence as uſual; and after ſome Pauſe,

L. H. Steward. My Lord *Wintoun*, I acquainted your Lordſhip that the Gentlemen of the Houſe of Commons who manage the Evidence to ſupport the Impeachment, have done with giving their Evidence; they deſign to give no more againſt you; therefore this is the time that is proper for your Lordſhip to make your Defence; you are to do it in your own method, either by calling your Witneſſes, or making ſuch Obſervations in your Defence as you think proper.

L. Wintoun. Pleaſe to allow me ſome time, for my Witneſſes are not yet come. I have uſed all poſſible Endeavours to get them, pleaſe to allow me 'till this Day Month 'till they come up. It will ſignifie nothing to examine any Witneſſes after I am dead. I never ſaw my Council but once, that they might inſtruct me what I have to ſay. My Lords, I am informed they will be here ſome time next Week.

L. H. Steward. What your Lordſhip ſaid is not heard.

L. Wintoun. I ſaid I never ſpoke to any of my Council, and that but once I have ſent to my Council; I never ſaw them.

Proclamation for Silence was made as uſual.

L. H. Steward. My Lord, offer what you have to ſay now, while the Court is in Silence.

L. Wintoun. My Lords, the moſt material of my Witneſſes are not come up, they will be here ſome time next Week; I have not talk'd to my Council.

L. H. Steward. Your moſt material Witneſſes are upon the Road, you deſire time 'till they come up, the Effect of your Petition to the Houſe of Lords; that is what you offer again?

L. Wintoun. Yes, my Lords.

Att. Gen. We think it our Duty to acquaint your Lordſhips, that what that noble Lord inſiſts upon now is out of time. If he had any Reaſons to offer to defer the Tryal, he knew the proper Time and Place. Our Duty is to let your Lordſhips know, that when the Evidence for the Proſecution is given, the Priſoner is not to have time to delay the Proceedings, not any longer time. He ought to have applied before. We muſt ſubmit it to your Lordſhips.

Mr. *Cowper.* This Requeſt of his Lordſhip, the Priſoner at the Bar, ſeems to concern the Methods of Juſtice, and is, we think, of great Conſequence with reſpect to the Commons. My Lords, we ſhould have been very far from preſſing to bring on his Lordſhip's Tryal ſooner than might have been thought conſiſtent with the Rules of Juſtice: But when we conſider the Time your Lordſhips have allowed him upon ſeveral Applications he has made to your Lordſhips for that purpoſe; when we all know he has had Notice ever ſince he was ſeized and made Priſoner at *Preſton*, that a Defence would be neceſſary, and that it concerned him to provide for it; when we reflect how long it is ſince the Commons exhibited their Impeachment againſt him, it's ſurprizing after all to find his Lordſhip alledge, that he hath not had Time to bring up his Witneſſes. With what View his Lordſhip is adviſed to make this Defence may be eaſily explained: It is, my Lords, to move the Compaſſion of the People, and, I fear, to traduce the Juſtice of your Lordſhips Proceedings. Surely it muſt be confeſſed, that he hath had more than Time ſufficient, more than any one in the like Circumſtances hath been

been allowed by your Lordſhips great Indulgence; and yet at laſt to have nothing to offer, but that his Witneſſes are not come, without attempting to produce one ſingle Witneſs to prove that he has or expects any one Witneſs to appear for him.

My Lords, the ſtated Rules of Proceeding in Tryals of this Nature ought to be ever ſacred; and I don't know that any one Priſoner hath a Right to be indulged in Methods unknown to the Conſtitution.

My Lords, I believe when a Priſoner impeached by the Commons puts himſelf upon his Defence, and is brought upon his Tryal, there ought to be no Interruption or Delay whatſoever. Sure I am, it is inconſiſtent with the Proceedings of all other Courts of Juſtice.

Your Lordſhips, as we are informed, lately denied the Priſoner any further Time; and if it was then thought not proper to be granted, certainly now he hath put himſelf upon his Tryal, and ſtands upon his Defence at your Lordſhips Bar, he ſhall not be indulged to making the ſame Requeſt.

My Lords, whatever Compaſſion we may have for this unhappy Lord, yet the Commons, when they reflect that the Methods and Forms of Juſtice are eſſential to Juſtice it ſelf, they then think themſelves obliged to oppoſe a new Attempt, and hope the Tryal ſhall proceed.

L. Wintoun. My Witneſſes are not come up. They will be up about *Monday* or *Tueſday* next. I have had no longer time than ſince the 10th of *February* laſt to bring up my Witneſſes, when it was very bad travelling.

A Motion was made to Adjourn.

L. H. Steward. My Lord *Wintoun*, your Lordſhip hath heard the Commons oppoſe your Requeſt: You have heard the Reaſons given for ſuch Oppoſition. Doth your Lordſhip, having heard the Reaſons, yet inſiſt upon it, or do you withdraw your Requeſt?

L. Wintoun. I inſiſt upon it, my Lords.

Then the Houſe was Adjourned to the Chamber of Parliament.

And being returned in about an Hour, and the Houſe reſumed, and Proclamation made for Silence, as uſual;

L. H. Steward. My Lord *Wintoun*, I am commanded by the Lords to let you know, that they have conſidered your Requeſt, and that they are of Opinion it is not now conſiſtent with the Rules of Juſtice to allow you further Time for ſending for your Witneſſes; therefore you are to proceed in your Defence. I am likewiſe to acquaint you, that in reſpect to the lowneſs of your Voice, the Lords have ordered a fit Perſon to ſtand by you (after he is ſworn) to report truly to their Lordſhips what you ſay during your Tryal.

Is it your Lordſhips Pleaſure that one of your Lordſhips Clerks be appointed to ſtand by and report to your Lordſhips?

Lords. Yes, Yes.

A Clerk was ſworn to make true Report; but my Lord *Wintoun* began to ſpeak ſo very low, as ſcarce any could hear. Whereupon

Sir *J. Jekyll.* My Lords, I perceive it is your Lordſhips Pleaſure to indulge the Lord at the Bar, to have a Perſon ſworn to report truly to your Lordſhips what he ſhall ſay in his Defence; but it is not your Lordſhips Intention that the Lord at the Bar ſhould ſpeak ſo low, as it is impoſſible for us or any near him to hear what he ſays.

L. H. Steward. My Lord *Wintoun*, Speak as loud as you can, ſo as the Managers may hear; he is only to help your Voice, ſo as their Lordſhips may hear.

Clerk from Lord Wintoun. I think it very hard, and great Injuſtice, that I ſhould not be allowed Time to make my own Defence; and that my Witneſſes ſhould not come up; and that I ſhould be tyed down to a fooliſh Form, which I am not accuſtom'd to, when I am in danger of my Life.

Then the Houſe was Adjourned to the Chamber of Parliament.

Friday,

Friday, March 16. The Second Day.

L. H. Steward. THE Houſe is reſumed. Do your Lordſhips give the Judges leave to be cover'd?

Lords: Ay, ay.

Proclamation made for Silence, and another to bring forth the Priſoner, as uſual.

The Priſoner brought to the Bar, and kneels.

L. H. Steward. My Lord *Wintoun*, you may riſe. —— My Lord *Wintoun*, you may proceed upon your Defence.

The Clerk order'd to report as before.

L. H. Steward. I again remind your Lordſhip, You are to ſpeak in your Defence as loud as you can; if your Voice is not heard, he is ready to report to the Lords what you ſay, but you muſt ſpeak as loud as you can.

Clerk from Lord Wintoun. My Council is ready here to ſpeak for me.

L. H. Steward. My Lord, I would not preſume to make an Anſwer, but that it is known Law; that undoubtedly your Lordſhip cannot have Council, by the Law of the Land, to ſpeak in your Defence, unleſs it be to Matter of Law; for the Law ſuppoſes every Man ſufficient to anſwer for himſelf as to Matter of Fact.

Clerk from Lord Wintoun. My Lords, I am not accuſtomed to ſpeak on ſuch Occaſions, therefore I hope your Lordſhips will allow my Council to ſpeak for me.

L. H. Steward. My Lord, I muſt acquaint you, that the Law in this Caſe admits of no Exception, but holds to the general Rule.

Clerk from L. Wintoun. My Lords, I don't underſtand the Law; I am perfectly a Stranger to the Cuſtoms of the Houſe, therefore hope your Lordſhips will allow my Council that know them to ſpeak for me.

L. H. Steward to the Clerk. You let your Voice fall.

Clerk from L. Wintoun. I am not accuſtomed to the Practice of this Houſe; therefore I deſire that your Lordſhips would pleaſe to allow other People to ſpeak for me that underſtand them.

L. H. Steward. My Lord *Wintoun*, Your Council are not to be allowed to ſpeak for you, as to thoſe Things that are Matter of Fact, in an Impeachment of High Treaſon, but to what is Matter of Law; and I believe if you ask your own Council they will tell you, as the Law ſtands they cannot be heard for you here as to Matter of Fact.

Clerk from L. Wintoun. The Council will inform your Lordſhips of the Matter of Fact, and they know how better to expreſs it than I do.

L. H. Steward. My Lord *Wintoun*, Have you any Witneſſes to call in your Defence?

Clerk from L. Wintoun. I told your Lordſhips Yeſterday, my moſt material Witneſſes were not yet come up.

L. H. Steward. My Lord, I acquainted your Lordſhip Yeſterday, and now would remind you of your own Petition exhibited to the Houſe of Lords, wherein you acknowledge that a great many of your Witneſſes were come up; thoſe Witneſſes were arrived, you only then pretended Four were not yet come. Doth your Lordſhip deſign to make no manner of uſe of thoſe great Numbers of Witneſſes that you admitted were come?

Clerk from L. Winton. Without thoſe they would not be of ſuch an Effect—They would ſerve for nothing without thoſe Witneſſes coming.

L. H. Steward. My Lord *Wintoun*, Your Lordſhip will pleaſe to obſerve the Lords wait with great Patience, to ſee if your Lordſhip would be better adviſed, and go into your Defence.

Clerk

Clerk from L. Wintoun. I don't really know, my Lords, what to ſay for it, for I don't underſtand the Proceedings of this Houſe. It was always the Cuſtom in any Court where I was, for People to be allowed to ſpeak, or the Council be allowed to ſpeak for me, for I am not accuſtomed to ſpeak any manner of way in my own Defence, therefore I hope you will allow my Council to ſpeak for me. My Council have a Point of Law to ſpeak to; they ſay ſo, but I know nothing of it.

L. H. Steward. My Lord *Wintoun*, Your Council have had Acceſs to you; and tho' your Lordſhip can't ſpeak and argue to the Point of Law, can't your Lordſhip propoſe what the Queſtion is?

Clerk from L. Wintoun. It is impoſſible for me to do a thing I don't underſtand; I don't know what the Point of Law is, no more than a Man that knows nothing about it.

When ſome laugh'd,

L. Wintoun. I am only ſpeaking in my own Defence; I don't expect to be laugh'd at.

L. H. Steward. I think his Lordſhip does obſerve well; I hope every one will forbear that.

L. H. Steward. Won't your Lordſhip be pleaſed to name what Matter the Queſtion concerns?

Clerk from L. Wintoun. It will be ſomething about the Tryal; no doubt ſomething of what the Common People have been ſpeaking about —— It is, no doubt, in Anſwer to the Managers of the Houſe of Commons. I have not ſeen my Council ſince I was laſt here in the Houſe; I have been kept cloſe Priſoner all the Time, and no body come near me; nor had I any Time to ſpeak with any body, particularly with my Council; ſo that I have not had Time to be exactly informed of all the Points of Law they have to plead. The Council will tell themſelves what Point of Law they have to plead.

L. H. Steward. My Lord *Wintoun*, regularly you ſhould propound your own Queſtion before your Council ſpeak. Before it appears to be a Point of Law, it is not fit for your Council to be heard.

Clerk from L. Wintoun. It is impoſſible I ſhould direct a Council, I, that don't underſtand Law: I can't introduce a Point of Law; my Council will ſpeak to the Point of Law.

L. H. Steward. My Lord *Wintoun*, Did not you ſpeak to your Council laſt Night?

Clerk from L. Wintoun. I could not.

L. H. Steward. Why?

Clerk from L. Wintoun. Becauſe it was late when I went from hence; and your Lordſhips know I am a cloſe Priſoner in the Tower; and was lockt up, and could not ſee them. I ſee no body but the Guards.

L. H. Steward. Hath not your Lordſhip ſeveral times ſeen your Council, as often as you required an Order for ſo doing?

Clerk from L. Wintoun. I never ſaw my Council but once, before I gave in my Anſwer.

L. H. Steward. Did you deſire to ſee them oftner?

Clerk from L. Wintoun. My Lords, my Sollicitor ſpoke to them; and my Witneſſes not being come up, it was needleſs for me to ſpeak to my Council, before that they might know what the Witneſſes had to ſay, and ſo might draw up the State of the Queſtion. I did not doubt but the Lords would have given me more Time; and therefore I was not ſo deſirous to ſee my Council, as I would have been, if I thought I ſhould have been ſo much crampt in Time.

Mr.

Mr. Cowper. My Lords, I had the Honour to receive the Commands of the Commons, to reply to his Lordſhip's Defence; and it was reaſonable to expect that the Priſoner, having pleaded Not Guilty to the Impeachment, would have attempted to give ſome Evidence in ſupport of his Plea; but ſince it ſeems to be his Lordſhip's Reſolution not to enter into a Defence, I think it my Duty to ſay ſomething to your Lordſhips upon this unexpected Occaſion. Such is the Treaſon, and ſo full the Evidence to prove it, that I think his Lordſhip's Behaviour, unaccountable as it is, more to his Purpoſe than any other could have been. My Lords, I am very unwilling to ſpeak my own private Sentiment of his Lordſhip's preſent Conduct, although the Obſervations I could make ariſe out of his Lordſhip's Anſwer to the Impeachment: Whoever ſhall Read and conſider it, will find my Lord *Wintoun* not denying, but confeſſing the ſeveral Overt-Acts of Treaſon laid to his Charge, and then drawing a falſe Concluſion, that he is not Guilty however of the Treaſon whereof he is Accuſed. He denies that what he did was done with a traiterous Intention, and ſays very Emphatically, that the pure Streams of Loyalty which have always run in the Blood of his Anceſtors, are derived to him uncorrupted; and thus, my Lords, a Popiſh Pretender being the Object of his Lordſhip's Loyalty, he thinks he may be guilty of the whole Impeachment without being a Traitor. This is the true ſtate of the Caſe. It ſeems to me, his Lordſhip is determined to maintain his Point; and how far he may think it proper to acknowledge your Lordſhips Juriſdiction I know not. My Lords, as to the Impeachment which the Commons with great Juſtice have exhibited againſt this Priſoner, your Lordſhips have obſerved that the ſeveral Treaſons therein contained have been fully proved; I am unwilling, in a caſe ſo plain, and where no Defence has been, or can be made, to waſte your Lordſhips time. Your Lordſhips have heard, in the courſe of the Evidence which we have produced, that this Lord departed from his Seat of *Seaton* Houſe with about fourteen of his own Servants free and unconſtrained; that he joined others of the Rebels at *Moffett*, at which Place his Lordſhip was pleaſed to form a Troop, which from thenceforth was called the Earl of *Wintoun*'s Troop. The Priſoner had the Command of it, and for fear his Zeal for the Pretender ſhould paſs Unobſerved, his own Servants rid in his own Troop in his own Livery; and I may add, that it appears his Lordſhip's Troop was paid after the rate of Two Shillings *per diem* each Man, by his Lordſhip's Order, and with his own Mony. From the Town of *Moffett*, which I mentioned, your Lordſhips had an account of many Marches and Countermarches of his Lordſhip and the Rebels under him every where increaſing in their Numbers; every where declaring and proclaiming the Pretender to his Majeſty's Crown, as King of theſe Realms. And, my Lords, I may venture to ſay it appears through the whole courſe of the Evidence, that no one was more zealous and active than the Priſoner My Lords——

L. Guilford. I am very ſorry to interrupt that Gentleman, but I think it proper, before the Houſe of Commons ſum up their Evidence, to move your Lordſhips to Adjourn to the Houſe of Lords.

Then the Houſe was Adjourned to the Chamber of Parliament; and after about half an Hour returned, and the Houſe was Reſum'd.

And Proclamation for Silence being made as uſual,

L. H. Steward. My Lord *Wintoun*, I am order'd by their Lordſhips to acquaint you, that they are yet ready to hear any thing that you have to ſay in your Defence by way of Obſervation upon what hath been proved againſt you, or alledged againſt you, or otherwiſe; they are likewiſe ready to hear any Witneſſes you are pleaſed to Call or Produce; but then I am to acquaint your Lordſhip, that if you neglect this Opportunity now given you, then it is their Lordſhips Pleaſure that I ſhould ſignifie to the Managers of the Houſe of Commons, that they ſhould go on to their Reply;

ply; and if ſuch Reply be made, your Lordſhip hath no further Opportunity to alledge any thing, or to prove any thing. This Notice is order'd by their Lordſhips to be given you. I am likewiſe to acquaint you, that it is their Lordſhips Opinion, as I before told you, that if you have any Queſtion of Law to be ſpoken to by your Council, their Lordſhips cannot admit any other form, but that you ſhould propound it to their Lordſhips your ſelf.

Clerk from L. Wintoun. I believe my Council, my Lords, have ſomething to ſay in Anſwer to what the Managers have ſaid. My Lords, the Gentleman who was preſent, knows they would not let me know what they had to ſay.

Clerk He ſays I was by when his Council ſaid ſo.

L. H. Steward. My Lord, if your Lordſhip hath any Notes or Papers, you may help your Memory by them in your Defence——Read or look upon them

Clerk from L. Winton. I ſhall read it as I can, and you will excuſe it if I don't do it right as I ſhould do.

Lord Wintoun Reads, and the Clerk Repeats.

The Council have a Point of Law ariſing from what hath been paſs'd in the Houſe, to ſhow that he is ſuch a Perſon as is not capable of committing the Treaſon laid in the Impeachment. I plead Not Guilty, and this alledges the ſame. I ſay I am Not Guilty, and the Paper ſays it will demonſtrate I am not.

The Paper read again and repeated as before. The Council have a Point of Law ariſing from what hath paſſed in the Houſe, to ſhew that he is ſuch a Perſon that is not capable of committing the Treaſon laid in the Impeachment.

Clerk from L. Wintoun. I don't underſtand Law, and how ſhould I introduce a Point of Law?

L. H. Steward. My Lord *Wintoun*, if your Lordſhip doth not proceed to make a Defence, and to call your Witneſſes, I have already acquainted you, and I believe I ſhall be excuſed for doing it a ſecond time, that I ſhall ſignifie to the Managers of the Houſe of Commons to Reply, after which your Lordſhip can't have them examined.

Clerk from L. Wintoun. I heard your Lordſhip what you ſaid, but I don't underſtand what is meant by it.

L. H. Steward. They may proceed to ſay what they think proper touching that Sort of Defence your Lordſhip is making, to anſwer what they have already ſaid and proved againſt your Lordſhip; after they have ſaid and done this, the Lords won't allow you to ſpeak afterwards.

Clerk from L. Wintoun. The Council deſire to be heard, ſince they have written a Paper, to be heard on that Paper.

L. H. Steward. The Paper is allowed to help your own Memory, but you muſt not give in any Paper as written by your Council, nor mention it as ſuch

Clerk from L. Wintoun. I deſire my Council may be heard on the Point of Law contained in what I call the Paper. I deſire my Council may be heard to the Point of Law, which I read out of the Paper. I deſire my Council may be heard to the Point of Law, which they urge they have to ſay.

L. H. Steward. My Lord *Wintoun*, you have, by the help of a Paper, propounded that which you call a Point of Law. Their Lordſhips have heard what you have propounded. I don't find any Motion is made to adjourn, to conſider whether ſuch a Point is fit for your Council to be heard to, that is, whether it is a Point of Law. If there be any Doubt, you will preſently ſee it by the Effect, by ſuch a Motion as I have mentioned.

After ſome Pauſe,

L. H. Steward. If your Lordſhip doth not proceed, I muſt intimate to the Managers of the Houſe of Commons that they may Reply.

Clerk from L. Wintoun. My Lords, if your Lordſhips will allow my Council to be heard on the Point of Law I have given in.

L. H Steward. My Lord, I think I may now presume to tell you, that I humbly apprehend it is no Point of Law which you propose.

Clerk from L. Wintoun. I am not a Judge of a Point of Law, for I don't understand Law, nor never did

L. H. Steward. My Lord *Wintoun*, the same Matter must not be drawn over and over again. If your Lordship doth not proceed to something proper for your Defence, I must signifie immediately to the Managers that they may Reply.

Clerk from L. Wintoun. If your Lordships please to hear the Council, they will tell you what it means. The Council dare not speak 'till they be desired.

L. H. Steward. Gentlemen of the House of Commons, you may Reply.

Mr. Cowper. My Lords, I shall avoid, as near as I am able, repeating any Thing I have already said before your Lordships last Adjournment. I was observing that the Behaviour of the Prisoner, my Lord *Wintoun*, throughout all his Conduct, during the whole Progress of the Rebellion, appeared in a quite different Light, to that in which he would now willingly appear: Your Lordships find him, according to the Evidence, at every false Alarm very inquisitive to know the Occasion; having assumed the Command of a Squadron, his Lordship was instantly at his Post, ready to receive and encounter his Majesty's Forces, and the Reverend Mr. *Patten* has done Justice to his Lordship's Vigilance and Courage upon this Occasion; but it seems the Alarms were both false: Hence we may observe that Alarms may be false, and *Dangers may be imaginary*; which Mr *Patten*, and Men of his Principles, would do well to reflect on at leasure. My Lords, after great Numbers of Marches and Counter-marches, during which his Majesty's Subjects were plundered, the Publick Mony was seized, and Taxes exacted from the People by Force and Violence, Your Lordships have heard that the Town of *Preston* was seiz'd by this Lord, and the Traitors, his Accomplices. At this Place ensued a terrible Slaughter of his Majesty's faithful Soldiers, Men who deserved a better Fate than to die by the Hands of such perfidious Rebels. But when the usual Bravery of the King's Troops prevailed, and there was nothing left but the undeserved Hope of Mercy, you find the Prisoner amongst the rest surrendering his Arms and his Person to the Discretion of his Majesty's Generals. The Commons cannot, my Lords, but take a particular Satisfaction in one Incident, occasion'd by this Lord's putting himself upon his Tryal, which is, that it has administred to them a Time and an Opportunity, in the most publick Manner before this august Assembly, to vindicate his Majesty's Generals from a malicious Calumny suggested even by this Lord the Prisoner in his Answer to the Impeachment, and not only by him, but by the rest of his Accomplices already attainted. It seems not to be accidental, that all the Lords mentioned in the Impeachment should every one of them (false as it appears to be) alledge that they surrender'd, some say upon Promises, but all agree upon Hopes given of Mercy, considering how fully it now appears that there is not the least Colour or Shadow of Truth to support this Suggestion; it is no uncharitable Reflection to say, that their Lordships, I doubt, to supply the Mischiefs their Arms could not accomplish, were willing to assist their Party, by furnishing them with an Untruth to propagate. With what Zeal and Industry has it been accordingly propagated! I may take the Liberty, I presume, to say, with the Consent of this whole Assembly, that it appears on the Evidence, to be utterly false; nay further, that the very Reverse is true, the Rebels would willingly have obtained a Promise, or even a Hope of being recommended, but the Generals rightly told them, Rebels deserved no Mercy, nor would they treat with Rebels, of surrendring otherwise than at Discretion. I cannot conclude without touching shortly upon a Question which I observed his Lordship to ask, during the Course of the Evidence; I think it was proposed to Colonel *Cotten*, Whether

ther any of *our Men*, as his Lordſhip was pleaſed to expreſs it, were ſlain during the time of the Ceſſation of Arms at *Preſton*? which, in fact, it ſeems was true; and if it had been anſwer'd in the Affirmative without Explanation, I believe his Lordſhip would have been gratified, by furniſhing his Friends with another Story to propagate, which, well improved, might have laſted a good while; but when the Witneſs, (who, I preſume, diſcerned the Tendency and Malignancy of the Queſtion) gave his Anſwer, the Caſe appears this; The Rebels ſtipulate and agree (Hoſtages being delivered) that no Works ſhall be erected in the Town during the Suſpenſion; that no Perſon then in the Town ſhall go out of it during the ſame time; in breach of which Stipulation and Agreement about ſix of the Rebels attempt, Sword in hand, to Charge through the King's Troops, in which Attempt they fell; and if the King's Troops had done leſs they had not done their Duty. My Lords, I thought it not improper to make ſome few Obſervations upon the Evidence; not that his Lordſhip's Defence has made it requiſite, but to anſwer, according to my Power, the end of that Truſt which the Commons have been pleaſed to repoſe in me.

Sir *William Thomſon*. My Lords, I ſhould think my ſelf unworthy the Honour of being allowed any Share of your Lordſhips time; but as I was entruſted by the Commons to aſſiſt the Learned Gentleman who ſpoke laſt, in a Reply to ſuch Defence as ſhould be made by the Noble Lord at the Bar, although no Evidence has been produced by him, yet I muſt Requeſt your Lordſhips Patience to make a few Remarks on the Nature of this Cauſe, as it ſtands before your Lordſhips.

The Anſwer of the Noble Lord not being ſupported by Evidence, ought to go for nothing; but ſince ſeveral Matters are alledg'd in it to mitigate, if not to juſtifie his Proceedings, which are falſified by our Evidence, I beg leave to take ſome Notice of it.

I muſt agree with the Noble Lord, that 'It will be very pleaſing to that Ho-'nourable Aſſembly who are his Accuſers to have an Innocent Man Acquitted, 'as well as a Guilty one Condemned. Nor can I differ with him where he aſſerts, 'That to be taken with Perſons in Arms againſt the Government, is a 'reaſonable Preſumption of his Guilt, and a very juſt Foundation to accuſe 'him with the reſt ſo taken; but that the Circumſtances of his Caſe appear ſo 'different from the others, as to require your Lordſhips diſtinguiſhing him in 'Judgment'. I cannot ſay, that any thing has been offer'd to your Lordſhips which makes room for ſuch a Diſtinction.

'The noble Lord is pleaſed to give an Account of what happened 'to him about Eight Years ago, when he endeavour'd to avoid the Suſpicion of 'the Government; he mentions the ill Uſage of the Militia and the King's 'Troops, and ſeveral Tranſactions, *viz.* rifling his Houſe, and committing 'Diſorders there, without telling when they happened, or from whom; he is 'pleas'd to ſay that he was unfortunately driven into the Company of ſome of 'the Perſons mentioned in the Impeachment; that he joined them without a-'ny Intention to aſſiſt their Deſigns; that he never meant to leave his own 'Country; that he was ignorant of the Purpoſes of his Companions; that he 'was conſtrain'd to keep them Company, but never joyn'd in any Act of Ho-'ſtility, or countenanced or abetted them therein.

My Lords, the Evidence againſt this Noble Lord ſufficiently explains how far he abetted the Undertakings of his Companions.

It was prov'd to your Lordſhips, that when he firſt came to join the Rebels at *Moffett*, he brought Fourteen of his Domeſticks with him, moſt of them well armed and accoutred; that he came with them to a Place of Rendezvous, where were aſſembled the Lord *Kenmure*, and about One hundred and fifty Horſe; that from the time he joined them till he was taken, he marched along with them in an Hoſtile manner through all the Towns at the head of his Troop that he had form'd, and which he commanded upon all Occaſions; that he had

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alſo a Squadron under his Command and Direction, to whom he gave Orders, and was very ready to have diſpoſed them to Action, particularly on two Alarms of the Approach of the King's Troops; that he aſſiſted ſeveral times at the proclaiming the Pretender by the Rebels in the Towns where they paſſed thro' with his Sword in Hand; that he was with them at thoſe Towns where they ſeized the Publick Money, the Cannon, and other Warlike Inſtruments; and when he came to *Preſton*, that in the Preparations to reſiſt the King's Troops he was as active as any of the reſt; and particularly in the Church-yard, where the Rebels were drawn together in order to that Reſiſtance, he had his Sword and Piſtols with him, and was aſſiſting in making the Diſpoſitions for Engagement.

And for the Conſtruct that is pretended, 'tis plain, that as he came in to the Rebels in this manner I have mention'd without any Force or Compulſion whatever, ſo he continued all along with them, and gave them the beſt Aſſiſtance he could, and was far from ſhowing any Backwardneſs or Uneaſineſs at their Proceedings through the whole Progreſs of this Affair. He drank the Pretender's Health, and the other uſual Health among the Rebels, *viz.* Succeſs to their Cauſe; and if he had not wiſh'd it, he might have left them whenever he would, if he had an Inclination ſo to do, he did not want an Opportunity, particularly at *Langholm*, when about Five hundred Highlanders went back to *Scotland*; before they went they ſuffer'd him to come to them (though they would not any other) that he diſcourſed them, and came back from them, and declared it was not his Fault that they would not go along with him into *England*. My Lords, whether the whole Tenor of this Proceeding does not manifeſt the Intentions of this Noble Lord, and whether the Evidence of theſe Facts does not falſifie every Allegation in his Anſwer, by which he would juſtifie himſelf, your Lordſhips will eaſily determine.

The noble Lord ſays further in his Anſwer, 'That if he hath committed 'any Act which by the Rigour of the Law may be conſtrued High Treaſon, he 'hopes the Innocence of his Heart, and his Ignorance of the Law, will, by your 'Lordſhips Interceſſion, render him an Object of his Majeſty's Mercy; which, he 'ſays, he at the time of his Surrender was encouraged to depend upon by His Ma'jeſty's Officers.

As to any Aſſurances or Encouragement to expect Mercy upon the Surrender, the direct contrary is fully made out, I dare ſay, to your Lordſhips intire Satisfaction. And for your Lordſhips Interceſſion, that is not the Conſideration now before you: The Queſtion is only, whether the Witneſſes have proved him guilty of the High Treaſon of which he is accuſed?

I find the noble Lord cannot condeſcend to own the Facts he is charged with to amount to this Crime: He is pleaſed to ſay, 'That he is deſcended from a 'noble Family, in whoſe Blood the Streams of Loyalty were always pure, never 'corrupted or poſſoned with Treaſon or Sedition; that he never degenerated from 'his loyal Anceſtors, ſo as to form or carry on any Deſign to ſubvert or alter 'the Conſtitution of this Kingdom, but that he was always ready to ſacrifice 'his Fortune, and even his Life for its Preſervation.

My Lords, I could wiſh, for the Sake of this unhappy Lord, the Object of your preſent Conſideration, that it were not too evident what Conſtitution he meant to preſerve, and for which he has ventured his Life and Fortune.

All Mankind, who will not ſhut their Eyes, muſt ſee that the Purpoſe of this noble Lord and his Accomplices was to dethrone his moſt Sacred Majeſty, our Proteſtant King, whom God and the Laws have ſet over us, and in his ſtead to ſet up a Popiſh Pretender to his Crown, bred up in Superſtition, and under the Maxims of Tyranny and Arbitrary Power. The Succeſs of this Deſign muſt neceſſarily have produced a moſt dreadful Scene of Blood and Confuſion; the Life of our moſt Gracious Sovereign, the Lives of all his Royal Family, your Lordſhips, and thoſe other brave and honeſt *Britons* who would have ſtood in the Defence of the Religion, the Laws and Liberties of their Country, muſt have

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been ſacrificed to the Rage and Fury of Popiſh Bigotry, and to the inſatiable Cruelty of Jeſuites and Prieſts, who, as we are Proteſtants, are our moſt implacable Enemies.

Inſtead of the Happineſs we now enjoy under our moſt excellent Form of Government, where every thing that is dear and valuable to Human Nature is protected by the Laws from the leaſt Violence or Invaſion whatever, what could this Nation expect from Popery and Arbitrary Power, but endleſs Miſeries and Calamities, and the moſt abject Slavery?

My Lords, it is a melancholy Reflection, that there ſhould be any, who pretend to the Name of *Britons*, who would engage in ſo Groundleſs, ſo Unprovoked, and, moſt properly called, ſo Unnatural a Rebellion, or that others ſhould be ſo deluded or corrupted, as, by their falſe and malicious Inſinuations, and by their vile Calumnies on the beſt of Princes, or by their avowed Indifference towards him, to encourage that traiterous Enterprize.

All ſuch Enemies to the Welfare and Proſperity of their Country, ought to reflect, with the utmoſt Shame and Confuſion, on the diſmal Proſpect they were preparing for us by the natural Tendency of their Proceedings: And I cannot but think that it muſt add to the Affliction of this unfortunate Lord who ſtands before this auguſt Judicature, while he reflects on the Aſſurances given him of generous Compaſſion as far as is conſiſtent with the Rules of Juſtice, while he conſiders of that Humanity and tender Regard expreſs'd towards him by that great and noble Mind, who ſo juſtly repreſented all your Lordſhips Sentiments, while he obſerves that Care and Concern ſhown to him, that Aſſiſtance granted him towards making his Defence, and that his Judges are ſo many noble Peers, who can never be influenced to condemn the Innocent, and who will be govern'd only by full Proof and clear Conviction: Sure he muſt now reproach himſelf, when he thinks that he was about to ſubvert thoſe very Laws by which even his Life, who has ſo tranſgreſſed, is thus protected.

My Lords, I am here led to take Notice alſo, that his moſt gracious Majeſty (againſt whom this unfortunate Lord, with his Aſſociates, have ſo ſignally offended) hath been pleaſed to expreſs his mild and gentle Diſpoſition, even to them his moſt inveterate Enemies. *It was an Uneaſineſs to him that he could not diſtinguiſh the firſt Years of his Reign by the endearing Marks of Peace and Clemency; it afflicted him that the Calamities of his faithful Subjects ſhould require indiſpenſable returns of Severity.*

I may preſume your Lordſhips Natural Compaſſion would incline you to the ſame merciful Diſpoſition; but the Commons are perſwaded that your Lordſhips will have ſome Regard to the Lives of thoſe many Brave and Gallant Men, who by the baſe Methods of the Rebels were murdered, and expired in their Country's Cauſe; that their Blood demands the Juſtice of that Country in whoſe Defence it was ſpilt; and the Commons are aſſured that your Lordſhips muſt think that the Publick Safety alſo requires your exemplary Juſtice, eſpecially on the principal Offenders; and that 'tis the moſt effectual Method to prevent any future Inſurrections or Diſturbance of the Publick Repoſe and Tranquility of the Kingdom, and to render firm and laſting our preſent happy Eſtabliſhment.

Sir *J. Jekyll.* My Lords, the Gentlemen of the Houſe of Commons have nothing more to offer to your Lordſhips, but deſire your Lordſhips Opinion on this Evidence.

Then the Houſe of Lords was adjourned to the Chamber of Parliament, and being returned, the Houſe was Reſumed, and Proclamation made for Silence as uſual.

Then the Lord High Steward being ſeated on the Chair, placed as before-mentioned, ſtood up uncovered, and beginning with the youngeſt Peer, ſaid, *Thomas* Lord *Parker*, what ſays your Lordſhip, Is *George* Earl of *Wintoun* Guilty of the High Treaſon whereof he ſtands Impeached, or not Guilty?

Then

Then *Thomas* Lord *Parker* ſtanding up in his Place, and laying his right Hand on his Breaſt, ſaid, Guilty upon my Honour.

In like manner, the ſeveral Lords after mentioned, being all that were preſent, anſwered as followeth,

Richard Lord *Cobham*, Guilty upon my Honour.
Henry Lord *Carleton*, Guilty upon my Honour.
Bennet Lord *Harborough*, Guilty upon my Honour.
James Lord *Saunderſon*, Guilty upon my Honour.
Robert Lord *Bingley*, Guilty upon my Honour.
Allen Lord *Bathurſt*, Guilty upon my Honour.
Thomas Lord *Manſell*, Guilty upon my Honour.
Charles Lord *Boyle*, Guilty upon my Honour.
Simon Lord *Harcourt*, Guilty upon my Honour.
John Lord *Belhaven*, Guilty upon my Honour.
William Lord *Roſs*, Guilty upon my Honour.
John Lord *Gower*, Guilty upon my Honour.
Maurice Lord *Haverſham*, Guilty upon my Honour.
Henry Lord *Herbert*, Guilty upon my Honour.
John Lord *Aſhburnham*, Guilty upon my Honour.
Francis Lord *Guilford*, Guilty upon my Honour.
Richard Lord *Lumley*, Guilty upon my Honour.
Peregrine Lord *Osborne*, Guilty upon my Honour.
Charles Lord *Cornwallis*, Guilty upon my Honour.
John Lord *Colepeper*, Guilty upon my Honour.
Charles Lord *Bruce*, Guilty upon my Honour.
William Lord *Brooke*, Guilty upon my Honour.
James Lord *Compton*, Guilty upon my Honour.
William Lord *St. John*, Guilty upon my Honour.
Thomas Lord *Howard* of *Effingham*, Guilty upon my Honour.
Charles Lord *Fitzwalter*, Guilty upon my Honour.
John Lord *Delawar*, Guilty upon my Honour.
Peregrine Lord *Willoughby* of *Eresby*, Guilty upon my Honour.
Henry Lord Viſcount *Tadcaſter*, Guilty upon my Honour.
Henry Lord Viſcount *Lonſdale*, Guilty upon my Honour.
Talbot Lord Viſcount *Longueville*, Guilty upon my Honour.
Charles Lord Viſcount *Townſhend*, Guilty upon my Honour.
Laurence Lord Viſcount *Say* and *Seal*, Guilty upon my Honour.
George Earl of *Halifax*, Guilty upon my Honour.
John Earl of *Briſtol*, Guilty upon my Honour.
Heneage Earl of *Aylesford*, Guilty upon my Honour.
Charles Earl of *Tankerville*, Guilty upon my Honour.
Lewis Earl of *Rockingham*, Guilty upon my Honour.
James Earl of *Carnarvon*, Guilty upon my Honour.
Thomas Earl of *Strafford*, Guilty upon my Honour.
Archibald Earl of *Ilay*, Guilty upon my Honour.
Henry Earl of *Deloraine*, Guilty upon my Honour.
Hugh Earl of *Loudoun*, Guilty upon my Honour.
Thomas Earl of *Haddington*, Guilty upon my Honour.
John Earl of *Rothes*, Guilty upon my Honour.
Hugh Earl of *Cholmondeley*, Guilty upon my Honour.
Francis Earl of *Godolphin*, Guilty upon my Honour.
John Earl *Poulet*, Guilty upon my Honour.
John Earl of *Greenwich*, Guilty upon my Honour.
Henry Earl of *Grantham*, Guilty upon my Honour.
William Earl of *Jerſey*, Guilty upon my Honour.
Edward Earl of *Orford*, Guilty upon my Honour.
George Earl of *Warrington*, Guilty upon my Honour.

Richard

Richard Earl of *Scarbrough*, Guilty upon my Honour.
Henry Earl of *Portland*, Guilty upon my Honour.
Robert Earl of *Holderneſs*, Guilty upon my Honour.
Henry Earl of *Rocheſter*, Guilty upon my Honour.
Daniel Earl of *Nottingham*, Guilty upon my Honour.
Charles Earl of *Radnor*, Guilty upon my Honour.
Richard Earl of *Burlington*, Guilty upon my Honour.
Arthur Earl of *Angleſey*, Guilty upon my Honour.
Edward Earl of *Clarendon*, Guilty upon my Honour.
Thomas Earl of *Stamford*, Guilty upon my Honour.
Charles Earl of *Mancheſter*, Guilty upon my Honour.
George Earl of *Northampton*, Guilty upon my Honour.
John Earl of *Leiceſter*, Guilty upon my Honour.
Scroop Earl of *Bridgewater*, Guilty upon my Honour.
Lionel Earl of *Dorſet* and *Middleſex*, Guilty upon my Honour.
Henry Earl of *Lincoln*, Guilty upon my Honour.
Thomas Earl of *Pembroke*, Guilty upon my Honour.
James Earl of *Derby*, Guilty upon my Honour.
William Marquiſs of *Annandale*, Guilty upon my Honour.
Thomas Duke of *Newcaſtle*, Guilty upon my Honour.
Evelin, Duke of *Kingſton*, Guilty upon my Honour.
Robert Duke of *Ancaſter* and *Keſteven*, Lord Great Chamberlain, Guilty upon my Honour.
Henry Duke of *Kent*, Guilty upon my Honour.
John Duke of *Roxburgh*, Guilty upon my Honour.
James Duke of *Montroſ*, Guilty upon my Honour.
John Duke of *Montagu*, Guilty upon my Honour.
John Duke of *Buckingham* and *Normanby*, Guilty upon my Honour.
John Duke of *Marlborough*, Guilty upon my Honour.
Charles Duke of *Shrewsbury*, Guilty upon my Honour.
Charles Duke of St. *Albans*, Guilty upon my Honour.
Charles Duke of *Richmond*, Guilty upon my Honour.
Charles Duke of *Somerſet*, Guilty upon my Honour.
Charles Duke of *Bolton*, Lord Chamberlain of His Majeſty's Houſhold, Guilty upon my Honour.
William Duke of *Devonſhire*, Lord Steward of His Majeſty's Houſhold, Guilty upon my Honour.
Charles Earl of *Sunderland*, Lord Privy-Seal, Guilty upon my Honour.

L. H. Steward. My Lords, I am of Opinion that *George* Earl of *Wintoun* is Guilty of the High Treaſon whereof he ſtands Impeached, Upon my Honour.

Proclamation for Silence, and Proclamation to bring forth the Priſoner, as uſual.

L. H. Steward. George Earl of *Wintoun*, the Lords have conſidered of the Charge, and the Evidence given againſt you; and likewiſe of what you have ſaid in your Defence, and of the whole Matter as it hath been before them in this Tryal, and are of Opinion that your Lordſhip is Guilty, and have found your Lordſhip Guilty of the High Treaſon whereof you ſtand Impeached.

Is it your Lordſhips Pleaſure to adjourn to the Chamber of Parliament?

Lords. Ay, ay.

L. H. Steward. This Houſe is adjourned to the Chamber of Parliament.

Then all the Lords return'd in the Order before-mentioned to the Chamber of Parliament.

Monday,

Monday, March 19. The Third Day.

PRoclamation for Silence, and Proclamation for the Priſoner to be brought to the Bar, as uſual.

L. H. Steward. George Earl of *Wintoun*, when you was laſt at this Bar, I let your Lordſhip know that your Peers had found you Guilty of the High Treaſon whereof you ſtand Impeached, that is in the Terms of Law, Convicted you of High-Treaſon. I am now to ask your Lordſhip if you have any thing to offer why Judgment of Death ſhould not paſs upon you according to the Law.

Clerk from L. Wintoun. My Lord *Wintoun* ſaith his Council have a Point of Law to offer to your Lordſhips, to ſhow that he is ſuch a Perſon, againſt whom, by Law, Judgment ought not to be given.

L. H. Steward. My Lord, will your Lordſhip ſtate the Point upon which your Lordſhip is adviſed, that you are not ſuch a Perſon againſt whom Judgment ought to be given?

Clerk from L. Wintoun. I don't know what your Lordſhip means.

Sir *C. Phipps.* If your Lordſhips pleaſe, we have a Point of Law humbly to offer to your Lordſhips, if———

Att. Gen. My Lords, I hear a Gentleman of the long Robe offering to ſpeak. I do humbly inſiſt on it that they are not to ſpeak, unleſs there be a Point of Law ſtated by the Priſoner, and which your Lordſhips ſhall think to be a Point of Law, we think it irregular.

Mr. *Cowper.* We apprehend the Objection to that Gentleman's being heard is ſo obvious, that we are ſurpriſed to find he ſhould preſume to ſpeak without your Lordſhips direction ſo to do; he cannot but know that the Priſoner is to propound the Queſtion in Law; and if your Lordſhips ſhall conceive it to be a Point of Law proper to be argued by Council, your Lordſhips will direct him to ſpeak; but he ought not in any caſe to propound a Queſtion in Law, nor when a Queſtion is propounded by the Priſoner, to ſpeak to it without your Lordſhips expreſs Direction.

L. H. Steward. Sir *Conſtantine Phipps*, you know the Practice to be ſo, and the Point muſt be firſt ſtated by the Priſoner before you can ſpeak to it.

Sir *C. Phipps.* My Lords, if I had been heard but ten Words more——

Sir *W. Thomſon.* My Lords, we humbly inſiſt upon it that that Gentleman be not heard one Word more.

Lord *Ila* moved to adjourn.

L. H. Steward. Is it your Lordſhips pleaſure to adjourn?

Lords. Ay, Ay.

L. H. Steward. This Houſe is adjourned to the Chamber of Parliament.

The Lords went in their Order to the Chamber of Parliament.

And after about half an Hour being returned,

The Houſe was reſumed, and Proclamation made for Silence as uſual.

L. H. Steward. My Lord *Wintoun*, the Lords have conſider'd of the Matter which you have moved in Arreſt of Judgment, which was to this effect, that you are not ſuch a Perſon as againſt whom Judgment of Death for High Treaſon ought to be pronounced. I am directed to acquaint you that their Lordſhips are of Opinion it is matter of Fact, and not of Law; and that the Lords think you are ſuch a Perſon againſt whom Judgment ought to be given in this Caſe. I am likewiſe ordered by the Lords to reprimand you Sir *Conſtantine Phipps*, for having, in a Proceeding of this Nature, preſumed to be ſo forward as to ſpeak for the Priſoner at the Bar before a Point of Law was firſt ſtated, and you had leave to ſpeak to it; and your Fault is certainly the greater, for having preſumed to do this to a Matter which you cannot but know is Matter of Fact, and that the Law is not doubtful one way or other, the Fact being ſuppoſed. My Lord *Wintoun*, I am allowed again to ask your Lordſhip, if you have any thing further to alledge or move why Judgment of Death ſhould not paſs upon you according to the Law.

Clerk from L. Wintoun. My Council are ready to offer, in Arreſt of Judgment, that the Impeachment is inſufficient, for the Time of committing the Treaſon is not therein laid with ſufficient Certainty.

L. H. Steward. I think the Matter moved by my Lord is, That his Council ſhould be admitted to ſhow that the Impeachment is inſufficient, in reſpect that the Time therein is not laid with ſufficient Certainty. This I think is the Matter moved. Will your Lordſhips be pleaſed that the Council have Leave to ſpeak?

L. H. Steward. Is it your Lordſhips Pleaſure that the Council for the Priſoner may be allowed to ſpeak to this Point?

Lords. Ay, Ay.

L. H. Steward. I ask your Lordſhips Leave to go nearer to the Table.

Which being done,

Proclamation for Silence was made as uſual.

L. H. Steward. Gentlemen that are of Council for the Priſoner at the Bar, you have liberty to ſpeak to the Point propoſed.

Sir *Conſtantine Phipps.* MAY it pleaſe your Lordſhips, we that have the Honour to be aſſigned by your Lordſhips as Council in this Caſe, do humbly apprehend the Impeachment againſt the noble Lord at the Bar to be inſufficient; it is ſo uncertain, that we (with the greateſt Submiſſion) take it no Judgment can be given upon it. My Lords, we beg Leave to take Notice to your Lordſhips, that in Indictments in the Courts below, even for Treſpaſſes, the Law requires the certain Day when the Offence is ſuppoſed to be committed to be alledged, and if a particular Day be not laid, the Indictment is inſufficient. And if ſuch Certainty is requiſite in Offences of the moſt minute Nature, it is much more ſo in capital Crimes, and more ſtill in Offences of the higheſt Nature, ſuch as Treaſon, with which this noble Lord is charged.

My Lords, There be two Reaſons why, in Indictments for High Treaſon, a certain Day ſhould be aſſigned when the Treaſon was committed.

One is for the Advantage of the Priſoner, that being appriſed not only of the Facts with which he is charged, but alſo of the Time when thoſe Facts are ſuppoſed to be committed, he may be the better able to make his Defence: 'Tis poſſible he may have Witneſſes to prove he was at another Place, and in other Company, at the Time when he is accuſed to have committed the Treaſon, or may by other Circumſtances make his Innocence appear.

The ſecond Reaſon is for the Benefit of the Crown, that it may be known to what Time the Forfeiture ſhall relate; for in Treaſon the Forfeiture relates to the Time laid in the Indictment, and if there be no preciſe Time alledged in the Indictment, the Forfeiture can relate no further than to the Judgment.

My Lords, the Forfeitures in Caſes of Treaſon are very great, therefore we conceive, with humble Submiſſion, that the Accuſation ought to contain all the Certainty it is capable of, that the Priſoner may not by general Allegations be rendered uncapable to defend himſelf in a Caſe which may prove ſo fatal to him.

Our Books, my Lords, furniſh us with many Inſtances where Indictments have been held to be inſufficient for leſs Faults than not ſpecifying the Day when the Offence was committed; but in Caſes ſo plain, I will not trouble your Lordſhips with citing Authorities, for I believe there is not one Gentleman of the long Robe but will agree an Indictment for any capital Offence to be erroneous, if the Offence be not alledged to be committed upon a certain Day.

My Lords, an Attainder upon an Impeachment ſubjects the Offender to the ſame Puniſhment, the ſame Forfeitures, as an Attainder upon an Indictment; and therefore I am at a loſs to find out a Reaſon why there ſhould not be the ſame Certainty in one, as in the other; if equal Certainty be required in

both,

both, then we humbly ſubmit to your Lordſhips Judgment whether this Impeachment be not erroneous and inſufficient, in that there is no particular certain Time alledged when the Treaſon or the Overt-Acts were committed. The Treaſon alledged is conſpiring and imagining the Death of the King, and the Impeachment ſets forth, 'That the Conſpirators (and names them) as falſe 'Traytors to his preſent moſt ſacred Majeſty King *George*, the only lawful 'and undoubted Sovereign of theſe Kingdoms, having withdrawn their Allegiance, and cordial Love, and true and due Obedience, which they, as good 'and faithful Subjects, owed to his ſaid Majeſty, did, in or about the Months 'of *September*, *October*, or *November* 1715, moſt wickedly, malicioufly, falſely, and traiterouſly imagine and compaſs the Death of his moſt ſacred Majeſty.' My Lords, a Proſecution by Impeachment is a Proceeding at the Common Law, for *Lex Parliamentaria* is a Part of the Common Law; and we humbly ſubmit it to your Lordſhips Conſideration, whether there is not the ſame Certainty required in one Method of Proceeding at the Common Law as in another.

Your Lordſhips obſerve with what Uncertainty, as to the Time, the Treaſon is alledged. 'Tis ſaid to be in or about the Months of *September*, *October*, or *November* 1715. Who is able to ſay to which of theſe Months, much leſs to what Day of either of theſe Months, the Forfeiture ſhall relate? And how is it poſſible for the noble Lord, the Priſoner at the Bar, to make a Defence to a Charge ſo general, unleſs he bring for Witneſſes all thoſe Perſons with whom he has had any Converſation during thoſe Three Months at leaſt?

My Lords, The Overt-Acts are alledged with the ſame Inſufficiency and Uncertainty as the Treaſon itſelf is; for in charging the firſt Overt-Act, which is conſpiring to levy War and to depoſe the King, it is ſaid, 'That for ac'compliſhing and executing their ſaid traiterous Purpoſes, they the ſaid *James* 'Earl of *Derwentwater*, *&c.* did, in or about the ſaid Months, or ſome of 'them, and at diverſe other Times and at diverſe other Places within this 'Kingdom, wickedly and traiterouſly agree, confederate, *&c.* to raiſe, excite, 'and levy, within the Counties of *Teviotdale*, *Northumberland*, *Cumberland*, and the County-Palatine of *Cheſter*, and elſewhere within this Kingdom, a 'moſt cruel, bloody, and deſtructive War againſt his Majeſty, in order to 'depoſe and murther his ſacred Majeſty, and to deprive him of his royal 'State, Crown, and Dignity. My Lords, can any thing be more uncertainly alledged, than to ſay that the Conſpirators did, in or about the ſaid Months, or ſome of them, and at diverſe other Times and at diverſe other Places within this Kingdom, confederate, *&c.* to levy War within the Counties of *Teviotdale*, *Northumberland*, *Cumberland*, and County-Palatine of *Cheſter*, and elſewhere within this Kingdom?

The next Overt-Act, which is actual levying War, is not laid with greater Certainty; for the Impeachment ſets forth, 'That the ſaid Earl of *Derwent*'*water*, *&c.* their Accomplices and Confederates, *in or about the Months* 'aforeſaid, in the Counties aforeſaid, *or ſome of them*, did gather together 'great Numbers of his Majeſty's Subjects, and with them did aſſemble in a 'Warlike and Traiterous manner, in order to raiſe Tumults and Rebellion 'within this Kingdom; and having procured great Quantities of Arms, Ammu'nition, and Warlike Inſtruments, *at the Times and Places aforeſaid, or ſome* 'of them, did form and compoſe, or did aſſiſt in forming and compoſing an 'Army of Men, conſiſting of his Majeſty's liege Subjects, in order to wage 'War againſt his ſaid Majeſty, for, and in Behalf, and in Favour of the ſaid 'Pretender to the Crown of theſe Realms; and at the Time and Times and 'Places aforeſaid, *and at divers other Times and Places* within this Kingdom, 'the ſaid Conſpirators did levy and raiſe War and Rebellion againſt his moſt 'Sacred Majeſty, *&c.*

The next Overt-Act is proclaiming the Pretender, which is more uncertain than any of the other; for the Impeachment ſets forth, 'That the aforeſaid

'Con-

'Conſpirators, *during their March and Invaſion aforeſaid*, in open Defiance 'of his moſt Sacred Majeſty's juſt and undoubted Title to the Imperial Crown 'of theſe Realms, did wickedly and traiterouſly cauſe and procure the ſaid 'Pretender to be proclaimed in the moſt publick and ſolemn manner as King 'of theſe Realms.

Here is no certain Time or Place alledged when or where the Pretender was proclaim'd, but only that it was during their March and Invaſion.

The laſt Overt-Act ſeems to be laid with greater Certainty than the reſt; for 'tis ſaid, 'That the Conſpirators did, on or about the 9th, 10th, 11th, '12th, or 13th of *November* aforeſaid, traiterouſly ſeize and poſſeſs them-'ſelves of the Town of *Preſton*, in the County Palatine of *Lancaſter*, againſt 'his Majeſty, and did then, and there, in a Warlike and Hoſtile Manner, 'levy War, oppoſe, engage, and fight againſt his Majeſty's Forces, and did 'then and there cauſe and procure a miſerable and horrid Slaughter and 'Murther of many of his Majeſty's faithful Subjects. Here indeed are particular Days mention'd, but then the Words *or about* leave it at large, for no Man can tell how many Days may be included in theſe Words *or about*. We humbly apprehend that a Charge of this high Nature ought not to be alledged with ſuch uncertainty, and that the Impeachment is as erroneous as an Indictment drawn in this Manner would be; this being a Proceeding of the ſame Nature, and according to the Courſe of the Common Law.

My Lords, I do not pretend any great Skill in Parliamentary Proceedings, but preſume to ſay that in my little Experience in Buſineſs in other Courts, I never ſaw a Charge exhibited againſt any one that was laid in ſo uncertain a manner, unleſs in Libels in the Eccleſiaſtical or Admiralty Courts, which cannot in the leaſt influence the Caſe now before your Lordſhips; this (as I have obſerved) being a Proceeding according to the Courſe of the Common Law.

Upon the whole Matter I humbly ſubmit to your Lordſhips Judgment, whether for the Reaſons I have offer'd to your Lordſhips Conſideration, the Impeachment is not erroneous, and whether your Lordſhips will think fit to proceed to Judgment againſt the noble Lord the Priſoner at the Bar upon an Impeachment ſo uncertain and inſufficient as I humbly apprehend this to be.

Mr. Williams. MY Lords, I am alſo Aſſign'd, by your Lordſhips, of Council for this Unfortunate Lord, and humbly inſiſt in arreſt of Judgment, That there is a Defect in this Impeachment, in regard no certain Day is laid, when the Treaſon is charg'd to have been committed.

In the Impeachment 'tis ſaid, that this noble Lord did, *in or about* the Months of *September*, *October* or *November*, 1715. together with the others in the Impeachment nam'd, traiterouſly Compaſs the Death of His moſt Sacred Majeſty: That this noble Lord did, *in or about* the ſaid Months, *or ſome of them*, together with the reſt, agree and confederate to levy War againſt His Majeſty: That *in or about* the ſaid Months, *or ſome of them*, this noble Lord with others did levy War, and did March thro' ſeveral parts of the Kingdoms, and did proclaim the Pretender to be King: And that *on or about* the Ninth, Tenth, Eleventh, Twelfth *or* Thirteenth of the ſaid *November*, the noble Lord with others did Seize and Poſſeſs themſelves of the Town of *Preſton*, and Fought againſt His Majeſty's Forces.

This is the Effect of the Impeachment.

And with great Submiſſion I take it, That in point of Law, the Impeachment is defective in reſpect of the Uncertainty of the Time when this Treaſon is laid to have been committed.

I humbly apprehend, that the honourable the Houſe of Commons is the *grand Inqueſt of the whole Nation*; And that their Impeachment is in Nature of an Indictment, found by that grand Inqueſt: Differing from an Indictment in this Reſpect, that an Indictment is found by the Inqueſt of a

County

County only; but an Impeachment by the *grand Inquest of the whole Kingdom*.

And taking it, that Impeachments are properly to be resembled to Indictments,

Then as the omitting of the laying of a certain Day when the Treason was committed, wou'd be a material Fault in the Case of an Indictment; so, with great Submission, it is as material a Defect in the Case of an Impeachment.

It seems plain, that in the Case of an Indictment, a certain Day ought to be laid when the Treason was committed.

It will, I believe, hardly be denied, but that in Case of an Indictment for Treason, it wou'd be ill, if 'twere laid, that the Party indicted committed the Treason *on or about* the First of *September*, 1715.

It wou'd be apparently worse, if 'twere laid in an Indictment that the Party committed the Treason *in or about the Month of September*, 1715.

It wou'd still be worse (because more uncertain) if it were laid in an Indictment, that the Party committed the Treason *in or about* the Months of *September*, *October* or *November*, 1715.

And, with great Submission, this, as I humbly take it, is the very Case before your Lordships; I mean, taking it, that Impeachments and Indictments, as to the material Parts of them, are to be measur'd by the same Rules of Law, as I humbly conceive they ought to be.

That the certain Day, for the committing the Treason, ought to be laid in Case of Indictments for Treason, seems to be proved, not only from the constant Practice of laying a Day certain in all Indictments of Treason; but from the Reason of the Law, which shews it to be a *Substantial and Material* part of the Indictment.

That the constant Practice, in case of Indictments for Treason, is to lay the Day on which the Treason is supposed to be done, will, as I presume, be admitted.

And such constant Practice is, of it self, a strong Argument that the Law requires it.

But I humbly take it, that the Reason of the thing argues still much stronger for me, and shews it to be an *essential* Part of the Indictment.

The Reason of mentioning a Day certain in the Indictment when the Treason is supposed to have been Committed, is in some Respects even for the Benefit of the Crown it self, and in some Respects for the Advantage of the Party Indicted.

It concerns the Crown, in respect of the Forfeitures accruing to the King, of the Lands of the Party indicted; for where an Attainder ensues upon an Indictment for Treason, the Lands of the Party indicted are forfeited to the Crown, not only from the Judgment, but from the Day mentioned in the Indictment when the Treason is charged to have been committed.

This is expresly said, in the Lord *Cokes* 1 *Inst.* 13. *a. b.* 390. *b.* and the difference there taken is, between a Writ of Appeal and an Indictment. 'Tis there said, That if a Man be indicted for a capital Offence and outlaw'd upon it, the Land of the Party is Forfeited from the Day laid in the Indictment, for the committing of the Treason, or other Capital Crimes; but in Case of an Outlawry upon a *Writ of Appeal*, because no Day is mention'd in the Writ, the Forfeiture is only from the Judgment.

And tho' in the Case of a Writ of Appeal, which is call'd in Latin (*Breve*) from its Brevity, no Day is mention'd, yet in the Declaration upon the Appeal (which resembles an Indictment) 'tis necessary not only to mention the Day but even the Hour when the Murder or Felony was committed.

In the Case of *Wilson* against *Law*, which was Adjudg'd in the Court of *King's-Bench*, in the Sixth Year of King *William* and Queen *Mary*, in an Appeal of Murder, an Exception was taken to the Appeal that it was too uncertain, in regard the Murder was laid to be done, *circa horam primam post meridiem*, and this Incertainty even of the Hour was much insisted upon: But this

this 'tis true was at length over-rul'd, and held that *circa horam primam*, or *inter horam primam & ſecundam*, was well enough.

However no one, as I humbly apprehend, ever doubted, but that laying of a certain *Day* when the Fact was committed, is neceſſary both in the Caſe of an Indictment and in a Declaration upon an Appeal; and that as to the Land of the Party indicted, the Forfeiture relates to the Day mention'd in the Indictment.

But, If the Queſtion were ask'd in the preſent Caſe, from what Day the real Eſtate of this unhappy Lord ſhould be forfeited, it wou'd, as I humbly apprehend, be difficult to anſwer it.

And that Difficulty ariſes from the Incertainty of the Impeachment, as to the time when the Fact was committed.

If then the laying in an Indictment the certain Day when the Treaſon was committed concerns the Benefit of the Crown, as it ſurely does;

If it intitles the King to the Forfeiture of the Lands from the Day laid in the Indictment, as from the Authorities I have mentioned it appears to do;

If this Matter concerns that great Prerogative and Flower of the Crown, and its Right to Forfeitures;

Then ſurely this Omiſſion can by no means be call'd a ſlight Omiſſion, or a Fault in Form only

It will alſo have its Weight with your Lordſhips, That the mentioning a Day certain in the Indictment, when the Crime is laid to have been done, is likewiſe for the Benefit of the Party indicted. 'Tis for his Advantage to know the Time when he is charg'd to have committed the Offence, and by that he will be the better enabled to defend himſelf againſt the Accuſation.

It is a known Rule in Law, That in all Caſes of Indictments, (tho' for Miſdemeanours only) they ought to be ſtrictly certain.

This Rule holds *a fortiori* in Caſes of Indictments for capital Offences;

And ſtill, *a fortiori*, in Caſes of Indictments for High Treaſon, where for Example ſake the Judgment, tho' juſt, is as terrible as can well be thought of.

My Lords, I am ſenſible I ought to have too great a Value for your Lordſhips time, to cite any of thoſe numerous Caſes in the Law-Books, which juſtify that known Rule in the Law that requires Certainty in Caſes of Indictments.

I ſhall only beg Leave to mention to your Lordſhips one Caſe, which is an Authority of your Lordſhips, upon a Writ of Error before your Lordſhips, which ſhews how ſtrict the Law is in the penning of Indictments for Treaſon, and that it requires that even what ſeems to be Matter of Form only in ſuch Indictments muſt be complied with. It is the Caſe of the King againſt *Tucker*, which was in the Sixth Year of King *William* and Queen *Mary*, and is reported in Serjeant *Levinz*, 3 *Rep.* 396, where *Tucker* was indicted for Treaſon, and in the Concluſion of the Indictment it was not ſaid to be *contra allegiantiæ ſuæ debitum*; and upon this Indictment *Tucker* was attainted, and his Lands forfeited to the Crown, and afterwards purchas'd under the Attainder; but afterwards this Attainder was revers'd in a Writ of Error in the King's Bench upon very great Debate, for want of thoſe Words in the Indictment *contra allegiantiæ ſuæ debitum*, and upon a Writ of Error before your Lordſhips the Judgment of Reverſal was affirmed, by which means a Purchaſer under the Attainder loſt the Eſtate.

With Submiſſion, this Caſe is much ſtronger than the principal Caſe now before your Lordſhips.

In that Caſe it might with ſeeming Reaſon be objected, that the Word (*Proditoriè*) which is always in the Body of every Indictment, ſhews and neceſſarily implies that the Treaſon committed was againſt the Party's Allegiance, for elſe how could it be *Proditoriè?*

Alſo

Alſo in that Caſe the Treaſon is ſet forth at large in the Indictment, together with the Overt-Act, which *demonſtrates* that the doing this muſt be againſt the Party's Allegiance.

But all this would not maintain the Indictment, in regard Indictments for Treaſon were always laid to be againſt the Party's Allegiance.

And if the conſtant Forms of Indictments be an Argument,

'Tis as ſtrong a one for us in the preſent Caſe; for I believe there never was an Indictment without mentioning the Day when the Fact was committed.

Neither, with Submiſſion, is this matter of Form only, but 'tis the ſubſtantial part of the Indictment, in regard in this Point the King is intereſted in reſpect of the Forfeiture, and the Party in reſpect of his Defence.

It will, (I humbly preſume) hardly be expected from us, that we ſhould cite Precedents of Impeachments, eſpecially if 'twere known what few Hours Notice we have had of attending your Lordſhips in arreſt of Judgment.

However, I will beg Leave to mention one Caſe of an Impeachment freſh in your Lordſhips Memory, Dr. *Sacheverell*'s Caſe.

Dr. *Sacheverell* was impeach'd before your Lordſhips by the honourable Houſe of Commons for ſeditious Expreſſions in two Sermons, the one preach'd at *Derby* Aſſizes, and the other at St. *Paul's London*; and in that Impeachment the preciſe Days are laid when the Doctor preached each of theſe two Sermons.

And I humbly take it, that by the like Reaſon a certain Day ought to be laid in the Impeachment, when this Treaſon was committed; and that the Authority of Dr. *Sacheverell*'s Caſe ſeems ſo much ſtronger than the preſent Caſe in queſtion, as the Crime of Treaſon is higher than that of a Miſdemeanor.

My Lords, I have nothing elſe to ſay on behalf of this unhappy Lord; unhappy, as being in that doubtful State of Memory, not *inſane* enough to be within the Protection of the Law, nor at the ſame time *ſane* enough to do himſelf in any reſpect the leaſt Service whatever.

Here the Managers gave ſome Interruption to the Council.

Lord High-Steward. Mr. *Williams*, I apprehend the Reaſon why the Managers of the Houſe of Commons appear uneaſy with you, is, that you are going into a Matter of Fact, and which you have not Leave to ſpeak to; you muſt therefore confine your ſelf to the Point of Law that was ſtated.

Mr. Williams. My Lords, I ſhall take up no more of your Lordſhips time; but humbly hope that the Caſes of Indictments are parallel with thoſe of Impeachments;

That, as in an Indictment for Treaſon, the want of laying a Day when the Treaſon is charg'd to have been committed, is a manifeſt Error;

That as the conſtant Forms of Indictments are ſo;

That as the Reaſon of the Law requires they ſhould be ſo;

So for want of this Certainty in this Impeachment, we with great Submiſſion inſiſt that the Impeachment is defective:

And therefore pray that the Judgment againſt this unfortunate Lord may be arreſted.

Mr. *Walpole.* MY Lords, The Commons have attended to the Objection made by the Council on the Part and Behalf of the noble Lord at the Bar, and they humbly conceive thoſe learned Gentlemen ſeem to forget in what Court they are. They have taken up ſo much of your Lordſhips time in quoting of Authorities and uſing Arguments to ſhew your Lordſhips what would quaſh an Indictment in the Courts below, that they ſeem to forget they are now in a Court of Parliament, and on an Impeachment of the Commons of *Great Britain*. For ſhould the Commons admit all that they have offered, it will not follow that the Impeachment of the Commons is inſufficient; and I muſt obſerve to your Lordſhips, that neither of the learned Gentlemen have offered to produce one Inſtance relating to an Impeachment, I mean,

mean, to ſhew that ever the Sufficiency of an Impeachment was called in queſtion from the Generality of the Charge, or that any Inſtance of that Nature was offered at before. The Commons don't conceive, that if this Exception would quaſh an Indictment, it would therefore make this Impeachment inſufficient; nor do they think it neceſſary, in Juſtice to the noble Lord at the Bar, that a certain Day ſhould be mentioned in the Impeachment. They don't think, from the Nature of this Crime, and the Evidence that has been given, that there can be any Hardſhip for want of fixing a certain Day on which the Treaſon was committed. What he is charged with, is being concerned in a moſt notorious Rebellion. The time mentioned in the Impeachment is the Months of *September*, *October*, and *November*, and particularly the Ninth, Tenth, Eleventh, Twelfth, and Thirteenth Days of *November*. He is charged with being concerned from the time that he left his own Houſe, to the time he was taken at *Preſton*; and it hath been proved, I believe, in a more ample manner than ever any Crime of the like Nature hath been. And how can this noble Lord ſuffer becauſe no particular Day is mentioned, after he continued in Rebellion for ſo many Days and Months, and march'd thro' ſo many Counties? It is impoſſible to conceive he can ſuffer from any Uncertainty in the Charge, in not having a particular Day fixed. But, my Lords, the Commons think themſelves ſufficiently juſtified, and their Impeachment ſupported by a Precedent I have in my Hand, the Tryal of my Lord *Stafford*, who was try'd for High Treaſon, and was Executed for the ſame. And I obſerve that he had Council, and it appears he offer'd ſome things in Arreſt of Judgment; and although it will appear that the Time was more uncertain in that Impeachment, yet That was never attempted to be offer'd in Arreſt of Judgment. In his Caſe the Words of the Articles of Impeachment are, That for divers Years laſt paſt a damnable Contrivance and Conſpiracy had been form'd and carried on; that is juſt as theſe Articles are; and when they come to the particular Charge, all that is ſaid is, That within the Time aforeſaid, *&c.* that is, ſome time within divers Years laſt paſt; but this Impeachment is ſo far from being uncertain, that the Commons have named three Months, in which the Treaſon charged in the Impeachment was committed; and in the Precedent it is only ſaid, Within ſome of the Years laſt paſt; ſo that here the Commons are ſufficiently juſtified in the Articles exhibited by them, by the Precedent I have mentioned; and there Judgment paſſed, and nothing of this Nature was offered in Arreſt of Judgment. I hope this will ſatisfie your Lordſhips, that this Impeachment is ſufficient notwithſtanding this Objection; and I hope it will never be allowed here as a Reaſon, that what quaſhes an Indictment in the Courts below, will make inſufficient an Impeachment brought by the Commons of *Great Britain*.

Mr. Attorney-General. MY Lords, the Council for the Priſoner have made two Objections, as I apprehend, in Point of Law, which I would give a ſhort Anſwer to, without taking Notice of the other Matter which was ſpoke to by one of the Gentlemen, contrary to the Orders of the Houſe.

The Firſt Objection is, That there is no certain Day charged in the Impeachment, when the Treaſon was committed.

The Second is, That as to ſeveral of the Overt-Acts there is no Time mentioned at all.

I would follow the Steps of the Learned Gentleman who ſpoke before me, and I think has given a good Anſwer to theſe Objections: I would take Notice, that we are upon an Impeachment, and not upon an Indictment. The Courts below have ſet Forms to themſelves, which have prevailed for a long Courſe of Time, and thereby are become the Forms by which thoſe Courts are to govern themſelves; but it never was thought, that the Forms of thoſe Courts had any Influence on the Proceedings of Parliament. In *Richard* the Second's time it is ſaid

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in the Records of Parliament, That Proceedings in Parliament are not to be governed by the Forms of *Weſtminſter-Hall*.

I beg leave to take Notice, in Anſwer to this Objection, that tho' it is the uſual Form in the Courts below to alledge a certain Day on which the Crime is charged to be committed, yet at the ſame time they add (and at divers other Days and Times) and that Day which is laid, is only for Form ſake; but that Day is not material, they are not bound to prove the Crime committed on that Day, but they may prove the Defendant Guilty at any time, either before or after the Day laid in the Indictment. There has been produced by the Honourable Gentleman who ſpoke before, a Precedent in Parliament much ſtronger than this Caſe, it is the Caſe of the Lord *Stafford*; There is not ſo much Certainty as there is in this Impeachment. Here it is ſaid, That on or about the Months of *September*, *October* or *November*, or on or about one of them, the Crimes charged in the Impeachment were committed; but all that is ſaid in my Lord *Stafford*'s Caſe is, That there had been for many Years then laſt paſt a damnable Conſpiracy carried on; and when they came to charge the Noble Lord with particular Facts, there is no Time mentioned at all.

One of the Gentlemen cited another Caſe in Parliament, which was Dr. *Sacheverell*'s Caſe: There was in that Caſe an Exception taken to the Impeachment for Uncertainty; and it was ſaid and argued from the Forms of the Courts in *Weſtminſter-Hall*, that where Indictments were for Words ſpoke or writ, the Words muſt be laid as they were ſpoke or wrote; and the Opinion of the Judges was, that it was neceſſary according to the Forms of the Courts below, but it was reſolved to be otherways in the Court of Parliament, and they were not bound but by their own Forms; ſo that upon this Head we apprehend we are clear of the Forms of Law in the Courts below, and that they are of no Uſe, ſince if a certain Day is laid they are not by Law bound to prove the Crime committed on that Day, but may prove it upon any other Day.

The Second Objection is, That there is no Time laid for ſome of the Overt-Acts.

I think there is a certain Day charged when one of them was done, the ſeizing of *Preſton*; and in the Inferior Courts it has been held, that it is not neceſſary there ſhould be a Day and Place alledged for every Overt-Act.

We think this Objection has no weight in it, and therefore would not ſpend more of your Lordſhips time in it; we are in the Caſe of an Impeachment, and in the Court of Parliament. Your Lordſhips have already given Judgment againſt Six upon this Impeachment, and it is warranted by the Precedents in Parliament; therefore we inſiſt that the Articles are good in Subſtance, and according to the Forms of Parliament.

Mr. *Cowper*. THE Objection, as ſtated by the Priſoner, and upon which his Council have argued, is this, That the Time of the Treaſon committed is not laid in the Impeachment with ſufficient Certainty. The Council have acquainted your Lordſhips with the Practice of inferior Courts, and have inſiſted too much upon the Precedents of Treſpaſſes and other Crimes ſet forth in Indictments, conſidering the Queſtion ariſes upon the Uſage and Practice of the High Court of Parliament; and they cannot but know that the Uſages of Parliament are Part of the Laws of the Land, altho' they differ in many Inſtances from the Common Law, as practis'd in the inferior Courts, in Point of Form.

My Lords, if the Commons, in preparing Articles of Impeachment, ſhould govern themſelves by Precedents of Indictments, in my humble Opinion they would depart from the ancient, nay, the conſtant Uſage and Practice of Parliament.

It is well known that the Form of an Impeachment has very little Reſemblance to that of an Indictment; and I believe the Commons will endeavour to preſerve the Difference, by adhering to their own Precedents.

One of the learned Gentlemen has ſaid that he had not time to ſearch Parliamentary Precedents: That Gentleman ſeldom wants time to make himſelf ſerviceable to his Clients; but when he has more Leiſure, I believe he will not find one Precedent, where, in the caſe of an Impeachment of High Treaſon, there hath been a certain Day or Time laid when the Treaſon was committed. The Precedent that hath been mentioned of my Lord *Stafford* is directly otherwiſe: There your Lordſhips will find it laid thus, That *for many Years laſt paſt* there has been contrived and carried on by Papiſts a traiterous and execrable Conſpiracy. And afterwards when it comes to charge the Treaſon and Overt-Acts, it alledges *they were done* and committed *within the time aforeſaid.* And yet we don't find any Exception was taken for want of Certainty, altho' not ſo much as a Year was laid with Certainty, within which the Treaſon was committed.

In the Caſe of my Lord *Wintoun* the Commons have charged, That his Lordſhip, together with *James* Earl of *Derwentwater*, and ſeveral others, as falſe Traytors to his Majeſty, did, in or about the Months of *September*, *October*, or *November* 1715, traiterouſly imagine and compaſs the Death of the King: That his Lordſhip and the reſt, to accompliſh their ſaid traiterous Purpoſe, did, in or about the ſaid Months, or ſome of them, conſpire and agree to levy War within this Kingdom, in order to depoſe and murther his Majeſty: That his Lordſhip did, within the time aforeſaid, traiterouſly levy a War and Rebellion in the Bowels of the Kingdom; and that he, together with his Accomplices and Confederates, did, on or about the Ninth, Tenth, Eleventh, Twelfth, or Thirteenth of *November* aforeſaid, traiterouſly ſeize and poſſeſs themſelves of the Town of *Preſton*, and did then and there cauſe and procure a miſerable and horrid Slaughter and Murther of many of his Majeſty's faithful Subjects. So that, my Lords, here is a Certainty not only of the Year, but of the Months and Days; and the Treaſons committed by the Priſoner are, with Submiſſion, not only charged with Certainty as to the Point of Time, but are charged with a great deal more Certainty than was neceſſary, in a Caſe where his Lordſhip's Treaſons began at *Seaton* Houſe, and continued from thence 'till the Surrender of *Preſton*.

Surely there is not the leaſt Weight in the Priſoner's Objection; for even in the Caſe of an Indictment, tho' it may be neceſſary to lay a Day, yet it is not neceſſary to prove the Treaſon to be done upon that Day: So that even in inferior Courts it is an immaterial Form. One would think, if it be neceſſary to aſſign a Day certain, it ſhould be neceſſary alſo to prove the Treaſon to be done upon that Day; but it is not requiſite to prove the Treaſon upon the Day, therefore in inferior Juriſdictions it ſeems rather a Form than Subſtance. The Courts below have, it's true, their Forms, many Forms for which no Reaſon can be given; but I believe in Parliamentary Proceſs, nothing is neceſſary that is not material.

Sir *W. Thomſon.* MY Lords, We humbly apprehend that the Exception taken in Arreſt of Judgment has no Foundation in Law or Reaſon.

As to the Law, we muſt refer to the Forms of Proceedings in the Court of Parliament, which is the Law of Parliament, and which muſt be owned to be Part of the Law of the Land. It has been mentioned already to your Lordſhips, that the Precedents in Impeachments are not ſo nice and preciſe in Form as in the inferior Courts; and we preſume your Lordſhips will be governed by the Forms of your own Court, (eſpecially Forms that are not eſſential to Juſtice) as the Courts below are by theirs; which Courts differ one from the other in many Reſpects as to their Forms of Proceedings, and the Practice of each Court is eſteemed as the Law of that Court.

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As to the Reaſons alledged to ſupport the Exception, they will receive a plain Anſwer.

'Tis ſaid, that 'tis neceſſary to alledge a certain Day in an Impeachment when the Fact was committed, that the Defendant may be able to make his Defence, that he may produce Witneſſes to give an Account where he was at the time he is accuſed to have been guilty. And one of the learned Council was pleaſed to ſay, that this is requiſite in Indictments for the ſmalleſt Offences, and ought to be much more ſo in capital Caſes, and in Impeachments for ſo high a Crime as Treaſon. My Lords, that Gentleman knows very well, that the Day which is mention'd in an Indictment is not material to the Purpoſe of making a Defence as to that Time only, for that the Defendant muſt come prepared to give an Account of his Innocence all the time between the Day alledged and the Indictment found. And, in this Caſe there is no Hardſhip on the noble Lord at the Bar. Here is one of the Treaſons alledged to be within the Compaſs of Five Days (*viz.* the ſeizing of *Preſton*, levying War there, and engaging the King's Troops) If he could have given an Account of himſelf to have been elſewhere at thoſe times, it might have been of Service to him: But that happened very unfortunately for him to be otherwiſe, and your Lordſhips have found him guilty of thoſe Facts on or about thoſe Five Days. Which has created a Second Reaſon to be offered to your Lordſhips, That the time alledged is not ſufficiently certain (*viz.*) To what Day ſhall the Forfeiture of the Defendant's Eſtate relate? If 'tis taken the moſt favourably for the Defendant, the Conviction ſhall operate ſo as to make the Forfeiture only from the laſt of theſe Days, and I don't apprehend any other Inconvenience. But to infer that, for that Reaſon, no Judgment at all ſhall be given upon this Conviction, where the material, the ſubſtantial Part of the Iſſue is found, ſeems not to be a right Conſequence.

My Lords, we conceive for theſe Reaſons, and what has been mention'd before, this Exception has no Weight in it, and hope your Lordſhips will over-rule it.

L. H. Steward. Gentlemen of the Houſe of Commons, I ſuppoſe you don't oppoſe the Council's replying to you; afterwards, if you have any thing to offer, you may be heard to it.

Att. Gen. My Lords, we don't object to it, if the Commons have the Liberty of ſpeaking afterwards and cloſing, which they inſiſt upon as their Right.

L. H. Steward. Gentlemen, you may reply.

Sir *C. Phipps.* Is it your Lordſhips Pleaſure that we reply?

L. H. Steward. You may reply.

Sir *C. Phipps.* If your Lordſhips pleaſe, we do not, with great Submiſſion, apprehend they have anſwer'd our Objection; but before I take Notice of the Anſwers, I beg leave to ſet the learned Gentleman that ſpoke laſt right in one thing, wherein he did miſapprehend me: He was pleaſed to ſuggeſt that I ſaid the Day laid in an Indictment was material. I don't remember I ſaid ſo, for I never thought the Day ſo material, that there was a Neceſſity to prove the Treaſon to be committed upon that very Day; I did ſay there ought a certain Day to be alledged in Indictments, and that there always is; but how material that Day is, when alledged, is another Conſideration; but I conceive the Day laid in an Indictment, ought to be very near the time, if not upon the very Day the Treaſon is ſuppoſed to be committed, for the Reaſons I have before offered; and I take the conſtant Practice to be ſo. I perceive all the Gentlemen who have ſpoke in Anſwer to me have been pleaſed to admit, that

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in Indictments for Treaſon and other Capital Offences, there is a certain Day always alledged. The Honourable Gentleman that ſpoke firſt, was pleaſed to make a Difference between an Indictment and an Impeachment; That an Impeachment is a Parliamentary Proceeding, and that the Parliament in their Proceedings are not tyed up to ſuch ſtrict Form as the Courts below. I have already ſpoken fully to this Point, and therefore ſhall not trouble your Lordſhips with any Repetition, but ſubmit to your Lordſhips Judgment, whether an Impeachment, by which a Noble Peer is to be attainted, ought not to be as certain as an Indictment, by which a Commoner is to be attainted, and whether by the *Lex Parliamentaria* as much Certainty is not required in one Caſe as in the other. The ſame Gentleman was pleaſed to obſerve, that the Impeachment in my Lord *Stafford*'s Caſe was more general than this, for there it was charged, That for many Years laſt paſt there had been a Conſpiracy to alter and ſubvert the Government, *&c.* In anſwer to which I beg Leave to take Notice, that the Impeachment of that Lord begins with an Account of the Plot in general, and in that Caſe there is no doubt but ſuch a general Allegation was ſufficient. But whether the particular Part, which my Lord *Stafford* had in that Plot, be not more certainly alledged, I muſt beg leave to refer to the Tryal, for I cannot take it upon my Memory to ſay one way or other. But whether it was ſo or no, I think is not material; for that Honourable Perſon admits, that no Objection was made to that Impeachment for the Uncertainty of the Charge: If ſuch Objection had been made and over-ruled, it would have been a full Anſwer to us; but ſince no Notice was taken of it, our Objection is as ſtrong and of the ſame Force as if that Caſe had never happened,

A learned Gentleman of great Eminence in the Law was pleaſed to obſerve, that frequently in Indictments for Treaſon, the Offence is laid to be committed, *diverſis aliis diebus & vicibus*, which is true; but then in all ſuch Caſes there is a particular Day firſt charged in the Indictment; and I believe that learned Gentleman, or any other of the Long-Robe, will not ſay that an Indictment conceived in ſuch general Terms, without alledging a particular Day, would be good. As to that Part of the Impeachment which relates to the taking of *Preſton*, tho' that ſeems more certain than any other Over-Act; yet I have ſhewed that the Words *or about*, leave it at large, and render it uncertain.

My Lords, this is what we humbly offer by way of Reply; and humbly ſubmit to your Lordſhips Judgment, whether our Objections are not good, notwithſtanding what has been ſaid in Anſwer to them.

Mr. *Williams*. MY Lords, I muſt ſubmit it to your Lordſhips, whether the learned Managers have anſwer'd the Objection which we have humbly laid before your Lordſhips in Arreſt of Judgment.

The Managers are pleaſed to object, That we are attempting to quaſh an Impeachment of the Honourable Houſe of Commons for High Treaſon, and that this has not been known.

But my Lords, with great Submiſſion, we are not endeavouring to quaſh this Impeachment. We are ſo far from it, that we muſt admit that the Courts of *King's-Bench* will not quaſh Indictments for Treaſon, nor Indictments for Felony, nor even Indictments for any groſs Miſdemeanours, but will put the Party to plead to ſuch Indictments; but in the preſent Caſe, where the Matter in Iſſue has been try'd, and the unhappy Lord is Convicted; if this Impeachment be defective, as I humbly hope and inſiſt it is, Then what other Way, what other Method has this unfortunate Lord at the Bar to take Advantage of this Defect, but by offering

fering it to your Lordſhips in Arreſt of Judgment, which on my Lord's Behalf we now humbly do.

It ſeems admitted, as I apprehend, that had the preſent Queſtion been upon an Indictment, inſtead of an Impeachment, That then the Exception might have prevailed: But the Managers are pleaſed to inſiſt, that the Law and Courſe of Parliaments juſtifie this Omiſſion in Caſe of Impeachments; and for this an Honourable Manager has been pleaſed to cite the late Lord *Stafford*'s Caſe; and that the Impeachment of that Lord was more uncertain, as to the Time laid for the committing the Treaſon, than the Impeachment now before your Lordſhips.

My Lords, I muſt confeſs I am very unfit to anſwer an Objection of this Nature, and which concerns the Courſe of Parliaments: But wou'd beg leave, with the greateſt Submiſſion, to obſerve, that only one Precedent (I beg Pardon if I miſtake, I mean that of the late Lord *Stafford*) has been cited againſt us; It muſt be ſubmitted to your Lordſhips, how far that one ſingle Precedent will of it ſelf be taken as a Proof, that this is the Courſe and Cuſtom of Parliamentary Impeachments, Eſpecially when it appears that the Objection now made, was not made in that Caſe. It muſt be ſubmitted to your Lordſhips, whether repeated and iterated Acts are not requiſite to prove This, as well as all other Cuſtoms; and that if this were *Lex & Conſuetudo Parliamenti*, Whether it wou'd not be an eaſie Matter to cite many Inſtances in that Behalf, And whether it is not the more neceſſary in this Caſe to cite farther Precedents, in regard the ſingle Caſe of the Lord *Stafford* may ſeem, as to this Point, to have loſt ſome Part of its Force, by the later Precedent of Doctor *Sacheverell*'s Caſe, When even in Caſe of a Miſdeamenour, a certain Day is laid in the Impeachment when the Miſdemeanour is charged to have been committed.

It has been alſo objected by the learned Managers, that in Indictments of High Treaſon, it is uſually charg'd, that the Party committed the Treaſon *diverſis diebus & vicibus*, which is as uncertain as the preſent Impeachment.

My Lords, It is very true that theſe Words (*diverſis diebus & vicibus*) are as uncertain as the Words in the preſent Impeachment; and that theſe Words are uſually put into Indictments: But with Submiſſion, it is as true, that in all Indictments for Treaſon, over and beſides theſe Words, there is a certain Day laid when the Treaſon is ſaid to be committed; and I wou'd beg leave to know, whether if in Caſe of an Indictment, the Treaſon were laid to be committed *diverſis diebus & vicibus*, without any further Certainty as to the Day, whether this wou'd not be ill for the Uncertainty; And this Caſe, with Submiſſion, ſeems to come neareſt to the preſent Caſe; and as to the Words *diverſis diebus & vicibus*, tho' they are frequently mentioned in an Indictment, yet they are only Surpluſage, and the Indictment good, whether with 'em, or without 'em.

It is likewiſe objected, That if a certain Day for the committing this Treaſon had been mentioned, in this Impeachment, or in an Indictment, Yet it had not been material; Becauſe if the Treaſon had been proved to have been committed on any other Day, the Party muſt have been found guilty; and therefore, if the Day be immaterial, the omitting of it muſt be alſo immaterial.

My Lords, I muſt admit that the Day, as to the Party indicted, is not in this reſpect ſo far material, but that if it ſhou'd be prov'd that the Party committed the Treaſon on a different Day, than that laid in the Indictment, yet the Party muſt be found Guilty; And that it might put too great a difficulty on ſuch a Proſecution, To hold, that if the Treaſon be not proved to be committed on the preciſe Day laid in the Indictment, that therefore the Party, who appears ſtill Guilty of the Treaſon, ſhou'd upon the nicety of the time be found not Guilty; but what I humbly inſiſt on

is, that 'tis the conſtant Courſe to mention a Day certain in the Indictment, And that the Day thus mention'd in the Indictment is, as I believe, generally the very Day on which the Treaſon is inſiſted upon to be committed; And to know this, Is, with Submiſſion, of great uſe to the Party Indicted or Impeached and may very much aſſiſt him in his Defence. And I further humbly inſiſt, that the mentioning of a Day certain in the Impeachment or Indictment for the committing the Treaſon, is manifeſtly for the Advantage; and the omitting it, is to the Prejudice of the Crown; in regard, as between the Party impeached or indicted, and the Crown, the Forfeiture of the Land to the King ſhall relate to that Day which is laid in the Impeachment or Indictment.

My Lords, from hence, with the greateſt Deference to your Lordſhips, I beg leave to infer;

That the mentioning of a Day certain in the Impeachment, is material:

That by Conſequence the Omiſſion of it, is alſo material:

That therefore in reſpect of this Omiſſion, the Impeachment is defective;

And in regard of this Defect I humbly pray that your Lordſhips wou'd be pleaſed to Arreſt the Judgment.

Mr. Attorney-General. MY Lords, for preſerving the Rights of the Commons of *Great Britain*, I ſhall trouble your Lordſhips with a Word or two.

I think the Learned Gentlemen have left it now where they left it on their firſt Speech: They now agree that the particular Day in an Indictment is but Form, and that the Fact may be proved any Day before or after, and ſo the Law is in the Inferior Courts.

I only add this, that the Priſoner loſes no Benefit, nor gets any, by having a Day charged or omitted; for ſince it is of no uſe, he muſt provide for his Defence as if no Day was laid; and ſince it is immaterial in Indictments, it muſt be ſo in Impeachments. We are juſtified by the Forms and Precedents of Parliament. As to the Anſwer given to my Lord *Stafford*'s Caſe, That this Objection was not made there, but that it paſt *ſub ſilentio*: If that Impeachment had not been thought good, we know he had the Aſſiſtance of Learned Council, who were well able to adviſe him, and who certainly would have taken the Exception. There is no Uncertainty in it that can be to the Prejudice of the Priſoner, we inſiſt it is according to the Forms of Parliament, he has pleaded to it, and your Lordſhips have found him Guilty.

L. H. Steward. My Lord *Wintoun*, your Council have been heard, hath your Lordſhip any thing more to offer in Arreſt of Judgment?

L. Wintoun. If your Lordſhip will be pleaſed to ask the Council, they will tell you what they have to Object.

L. H. Steward. My Lord, you have been told again and again upon this Occaſion, that the Point you would have your Council ſpeak to muſt be firſt ſtated and propoſed by your ſelf; you have had ſufficient Opportunity to inform yourſelf

L. Wintoun. Since your Lordſhip won't allow my Council, I don't know nothing.

Lord *Stamford* moved to adjourn.

L. H. Steward. I once more acquaint your Lordſhip, that as your Council have been allowed to ſpeak; ſo the Queſtion yet is, Whether you have any other Point or Matter for them to ſpeak to; the Lords are ready to hear: Have you any thing elſe to propoſe?

L. Winton. If you will allow my Council to anſwer, he will anſwer.

L. H. Steward. My Lords! Is it your Lordſhips Pleaſure to adjourn to the Chamber of Parliament?

Lords:

Lords. Ay, ay.

Then the Houſe was Adjourned about three of the Clock, and about five returned again, and Proclamation was made for Silence as uſual.

H. Steward GEorge Earl of *Wintoun*, I have already acquainted you, that your Peers have found you Guilty, (*i. e*) in the Terms of the Law, Convicted you of the High Treaſon whereof you ſtand Impeached.

After, your Lordſhip has moved in Arreſt of Judgment, and the Lords have diſallow'd that Motion; their next Step is to proceed to Judgment.

The Melancholy Part I am to bear in pronouncing that Judgment upon you, ſince it is Majeſty's Pleaſure to appoint me to that Office, I dutifully ſubmit to; far, very far, from taking any Satisfaction in it.

'Till Conviction, your Lordſhip has been ſpoke to without the leaſt Prejudice, or Suppoſition of your Guilt; but now it muſt be taken for granted, That your Lordſhip is guilty of the High Treaſon whereof you ſtand Impeached.

My Lord, This your Crime is the greateſt known to the Law of this Kingdom, or of any other Country whatſoever: And it is of the blackeſt and moſt odious Species of that Crime; a Conſpiracy and Attempt, manifeſted by an open Rebellion, to Depoſe and Murder that Sacred Perſon, who ſuſtains and is the Majeſty of the whole; and from whom, as from a Fountain of Warmth and Glory, are diſperſed all the Honours, all the Dignities of the State, indeed the laſting and operative Life and Vigour of the Laws, which plainly ſubſiſt by a due Adminiſtration of the Executive Power.

So that attempting this precious Life, is really ſtriking at the moſt noble Part, the Seat of Life and Spring of all Motion in this Government; and may therefore properly be called a Deſign to murder, not only the King, but alſo the Body-Politick of the Kingdom.

And this is moſt evidently true in your Lordſhip's Caſe; conſidering that Succeſs in your Treaſon muſt infallibly have eſtabliſhed Popery; and that never fails to bring with it a Civil, as well as Eccleſiaſtical Tyranny; which is quite another Sort of Conſtitution than that of this Kingdom, and cannot take Place, 'till the preſent is annihilated.

This your Crime (ſo I muſt now call it) is the more aggravated, in that when it proceeds ſo far, as to take Arms openly, and to make an offenſive War againſt lawful Authority, 'tis generally (as in your Caſe) complicated with the horrid and crying Sin of murdering many, who are not only innocent but meritorious.

And if Pity be due (as I admit it is, in ſome Degree) to ſuch as ſuffer for their own Crimes; it muſt be admitted, a much greater Share of Compaſſion is owing to them, who have loſt their Lives meerly by the Crimes of other Men.

As many as have ſo done in the late Rebellion, ſo many Murders have they to anſwer for who promoted it; and your Lordſhip, in examining your Conſcience, will be under a great Deluſion, if you look on thoſe who fell at *Preſton*, *Dumblain*, or elſewhere, on the Side of the Laws, and in Defence of ſettled Order and Government, as ſlain in lawful War; even judging of this Matter, by the Law of Nations.

Alas! My Lord, your Crime of High Treaſon is made yet redder, by ſhedding a great deal of the beſt Blood in the Kingdom: I include in this Expreſſion the brave Common Soldiers, as well as thoſe Gallant and Heroick Officers, who continued faithful to Death, in Defence of the Laws; for ſure but little Blood can be better than that, which is ſhed while it is

warm in the Cauſe of the true Religion, and the Liberties of its Native Country.

Believe it; notwithſtanding the unfair Arts and Induſtry uſed, to ſtir up a pernicious Exceſs of Commiſeration, towards ſuch as have fallen by the Sword of Juſtice, (few, if compar'd with the Numbers of good Subjects, murdered from Doors and Windows at *Preſton* only) the Life of one Innocent, Loyal Subject is more precious, in the Eye of God, and all conſidering Men, than the Lives of many Rebels and Parricides.

This puts me in mind to obſerve to your Lordſhip, That

There is another Malignity in your Lordſhip's Crime (open Rebellion) which conſiſts in this; that it is always ſure of doing Hurt to a Government, in one Reſpect, though it be defeated; (I will not ſay it does ſo on the whole Matter.)

For the Offence is too notorious, to be let paſs unobſerved, by any Connivance: Then is a Government reduced to this Dilemma; If it be not puniſhed, the State is endanger'd, by ſuffering Examples to appear, that it may be attack'd with Impunity; if it be puniſh'd, they who are publickly or privately Favourers of the Treaſon (and perhaps ſome out of meer Folly) raiſe undeſerv'd Clamours of Cruelty againſt thoſe in Power; or the loweſt their Malice flies, is, to make unreaſonable, unlimited, and injudicious Encomiums upon Mercy and Forgiveneſs (things, rightly uſed, certainly of the greateſt Excellence.)

And this Proceeding, it muſt be admitted, does ſome Harm, with ſilly undiſtinguiſhing People.

So that Rebels have the Satisfaction of thinking they hurt the Government a little, even by their Fall.

The only, but true Conſolation every wiſe Government has in ſuch a Caſe (after it has temper'd Juſtice with Mercy in ſuch proportion as ſound Diſcretion directs, having always a Care of the publick Safety above all things) is this;

That ſuch like Seeds of unreaſonable Diſcontents, take Root on very ſhallow Soil only; and that therefore, after they have made a weak Shoot, they ſoon wither and come to nothing.

It is well your Lordſhip has given an Opportunity of doing the Government right, on the Subject of your Surrender at *Preſton*.

How confidently had it been given out by the Faction, that the Surrender was made on Aſſurances, at leaſt Hopes inſinuated of Pardon: Whereas the Truth appears to be, that Fear was the only Motive to it; the evil Day was deferred; and the Rebels rightly depended, fewer would dye at laſt by the Meaſures they elected, than if they had ſtood an Aſſault: They were awed by the experienc'd Courage, Diſcipline, and Steadineſs of the King's Troops; and by the ſuperior Genius and Spirit of His Majeſty's Commanders, over thoſe of the Rebels; ſo that in truth they were never flatter'd with any other Terms, than to ſurrender, as Rebels and as Traytors; their Lives only to be ſpar'd 'till his Majeſty's Pleaſure ſhould be known.

It was indeed a Debt due to thoſe brave Commanders and Soldiers (to whom their King and Country owe more than can be well expreſs'd) that their Victory ſhould be vindicated to the preſent and future Ages from untrue Detraction, and kept from being ſully'd by the Tongues of Rebels and their Accomplices, when their Arms could no longer hinder it.

'Tis hard to leave this Subject without ſhortly obſerving, that this Engine which ſets the World on fire, a Lying Tongue, has been of prodigious uſe to the Party of the Rebels, not only ſince and during the Rebellion, but before, while it was forming, and the Rebels preparing for it.

Falſe

False Facts, false Hopes, and false Characters, have been the greater Half of the Scheme they set out with, and yet seem to depend upon.

It has been rightly observed, your Lordship's Answer does not so much as insist, with any Clearness, on that, which only could excuse your being taken in open Rebellion; That you was forced into it, remain'd so under Force, and would have escaped from it but could not.

If you had so insisted, it has been clearly proved, that had not been true; for your Lordship was active and forward in many Instances, and so considerable in a Military Capacity among your Fellow-Soldiers, as to command a Squadron.

These and other Particulars have been observed by the Managers of the House of Commons, and therefore I shall not pursue them farther;

But conclude this Introduction to the Sentence, by exhorting your Lordship, with perfect Charity and much Earnestness, to consider, that now the Time is come when the Veil of Partiality should be taken from your Eyes (it must be so when you come to die) and that your Lordship should henceforward think with Clearness and Indifference (if possible) which must produce in you a hearty Detestation of the High Crime you have committed, and being a Protestant, be very likely to make you a sincere Penitent, for your having engaged in a Design, that must have destroyed the Holy Religion you profess, had it taken Effect.

Nothing now remains: But that I pronounce upon you that Sentence which the Law ordains, and which sufficiently shews, what Thoughts our Ancestors had, of the Crime of which your Lordship is now convicted: *viz.*

'That you *George* Earl of *Wintoun* return to the Prison of the *Tower* 'from whence you came; from thence you must be drawn to the 'Place of Execution; when you come there, you must be hang'd by 'the Neck, but not 'till you be Dead; for you must be cut down a-'live, then your Bowels must be taken out, and burnt before your 'Face; Then your Head must be sever'd from your Body, and 'your Body divided into four Quarters; and these must be at the 'King's Disposal.

And God Almighty be Merciful to your Soul!

Serjeant at Arms. O Yes! Our Sovereign Lord the King strictly Charges and Commands all manner of Persons to keep Silence, upon Pain of Imprisonment.

Then the Lord High-Steward stood up uncover'd, and declaring there was nothing more to be done by Vertue of the present Commission, broke the Staff, and pronounced it dissolv'd: And then leaving the Chair, came down to the Wooll-Pack, and said, Is it your Lordships Pleasure to adjourn to the House of Lords?

Lords. Ay, ay.

And then the House was Adjourn'd to the Chamber of Parliament, and the Lords and others returned in the same Order they came down.

FINIS.

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I Do Appoint *Samuel Buckley*, to Print the whole Proceeding upon the Arraignment, Tryal, Conviction and Attainder of CHRISTOPHER LAYER, Eſq; for *High Treaſon*; and that no other Perſon preſume to Print the ſame.

Jan. 21, 172½.

J. Pratt.

THE WHOLE

PROCEEDING

UPON THE

Arraignment, Tryal, Conviction

AND

ATTAINDER

OF

Chriſtopher Layer, Eſq;

FOR

HIGH TREASON,

IN

Compaſſing and Imagining

THE

Death of the KING.

In the Court of *King's-Bench* at *Weſtminſter*, in *Michaelmas* Term; In the Ninth Year of the Reign of our Soveraign Lord GEORGE, by the Grace of God, King of *Great Britain France* and *Ireland*: *Annoq*; *Domini* 1722.

Peruſed by the Right Honourable the LORD CHIEF JUSTICE, and the reſt of the JUDGES of the Court of *King's-Bench*, and by the COUNSEL for His MAJESTY, and for the Priſoner.

LONDON:

Printed by *S. Buckley* in *Amen-Corner*. 1722.

God
340.4
Gre/who

Die Mercurii 31° Die Octobris, 1722.

This Day Chriſtopher Layer, *Eſq*; *was brought to the Bar of the Court of* King's Bench *at* Weſtminſter, *upon a* Habeas Corpus *directed to the Lieutenant of the* Tower *of* London, *in order to be arraign'd on an Indictment for* High Treaſon *in compaſſing and imagining the Death of the King, found by the Grand Jury for the County of* Eſſex *before ſpecial Commiſſioners of* Oyer *and* Terminer.

Mr. Serjeant *Pengelly.* MY Lord, we pray the Return of the *Habeas Corpus* may be read.

Mr. Harcourt *Clerk of the Crown, reads the Return of the* Habeas Corpus, *by which it appeared that the Priſoner was committed to the* Tower *for High Treaſon.*

Mr. Serj. *Pengelly.* We pray that the Return may be filed.

Ld. Ch. Juſ. Let it be filed.

Mr. Serj. *Pengelly.* My Lord, There is an Indictment of High Treaſon found in the County of *Eſſex* againſt Mr. *Chriſtopher Layer,* which hath been removed into this Court by *Certiorari*; the *Certiorari,* and Return thereof hath been filed, and the Priſoner is now brought into Court in order to be arraigned.

Ld. Ch. Juſtice. Read the Indictment.

Cl. of the Cr. Chriſtopher Layer, Hold up your Hand.

You ſtand indicted by the Name of Chriſtopher Layer, *late of the Pariſh of St.* Andrew's Holbourn, *in the County of* Middleſex, Eſq; *: For that you being a Subject of our moſt Serene Lord* GEORGE, *now King of* Great Britain, France *and* Ireland, *Defender of the Faith,* &c. *not having the Fear of God in your Heart, nor weighing the Duty of your Allegiance; but being moved and ſeduced by the Inſtigation of the Devil, as a falſe Traitor againſt our ſaid Lord the King, your Supreme, True, Lawful and Undoubted Lord; withdrawing that Cordial Love, and true and due Obedience, Fidelity and Allegiance, which every Subject of our ſaid Lord the King towards Him ſhould and of Right ought to bear; and deſigning, and with all your Might Traiterouſly intending the Government of this Kingdom, under our ſaid Lord the King duly and happily eſtabliſhed, to Change, Alter, and Subvert; and our ſaid Lord the King of and from the Title, Honour, Royal Eſtate, Empire and Government of this Kingdom to Depoſe and Deprive; and our ſaid Lord the King to Death and final Deſtruction to Bring and Draw; and the Perſon during the Life of the late King* James *the Second, pretended to be Prince of* Wales; *and after the Deceaſe of the ſaid late King, pretending to be, and taking upon himſelf the Style and Title of King of* England, *by the Name of* James *the Third, to the Crown, Royal State and Dignity of King of this Kingdom, and to the Empire, Government, and Poſſeſſion of the ſame, to exalt and bring, the Twenty-Fifth Day of* Auguſt, *in the Ninth Year of the Reign of our ſaid Sovereign Lord the King that now is; and at divers other Days and Times, as well before as after, at* Laytonſtone *in the ſaid County of* Eſſex, *Falſely, Maliciouſly, Deviliſhly, and Traiterouſly, did Compaſs, Imagine, and Intend, our ſaid Lord the King, your Supreme, True, Lawful, and Undoubted Lord, of and from the Title, Honour, Royal Eſtate, Empire and Government of this Kingdom to Depoſe and Deprive; and our ſaid Lord the King to Death and final Deſtruction to Put and Bring. And that you the ſaid* Chriſtopher Layer, *to accompliſh and bring about your ſaid Treaſon, and Deviliſh and Traiterous Intents and Purpoſes, did, with divers other falſe Traytors, to the Jurors unknown, on the ſaid Twenty-Fifth Day of* Auguſt, *in the ſaid Ninth Year of the Reign of our ſaid Lord the King, and at divers other Days and Times, as well before as after, at* Laytonſtone *aforeſaid, in the ſaid County of* Eſſex, *by Force and Arms,* &c. *Falſely, Maliciouſly, Deviliſhly, and Traiterouſly meet, propoſe, conſult,*

ſult, conſpire, conſent, and agree, to move, raiſe, and levy Inſurrection, Rebellion, and War, within this Kingdom againſt our ſaid Lord the King, for the Traiterous Purpoſes aforeſaid. And that you the ſaid Chriſtopher Layer, *for the more effectual compleating and perfecting the ſaid Treaſon and Traiterous Intentions and Purpoſes, on the ſaid Twenty-Fifth Day of* Auguſt, *in the Ninth Year aforeſaid, at* Laytonſtone *aforeſaid, in the ſaid County of* Eſſex, *by Force and Arms,* &c. *Maliciouſly and Traiterouſly did publiſh a certain Malicious, Seditious, and Traiterous Writing, containing and purporting (amongſt other things) an Exhortation, Incitement, and Promiſes of Rewards, the faithful Subjects of our ſaid Lord the King, to perſwade, move and excite, to take up Arms, and to levy and make War within this Realm, againſt our ſaid Sovereign Lord the King, for the Traiterous Purpoſes and Intentions aforeſaid. And that you the ſaid* Chriſtopher Layer, *for the more effectual Compleating and Perfecting the ſaid Treaſon and Traiterous Intentions and Purpoſes, with other falſe Traitors, to the Jurors unknown, on the ſaid Twenty-Fifth Day of* Auguſt, *in the Ninth Year aforeſaid, and at divers other Days and Times, as well before, as after, at* Laytonſtone *aforeſaid, in the ſaid County of* Eſſex, *by Force and Arms,* &c. *Falſely, Maliciouſly, Deviliſhly and Traiterouſly, did meet, propoſe, conſult, conſpire, conſent and agree, by an armed Force, and by Soldiers to be raiſed and got ready for the Traiterous Purpoſes aforeſaid; the ſaid Perſon, during the Life of the ſaid late King* James *the Second, pretended to be Prince of* Wales, *and ſince the Deceaſe of the ſaid late King, pretending to be, and taking upon himſelf the Style and Title of King of* England, *by the Name of* James *the Third, to the Crown Royal, Eſtate and Dignity, of King of this Kingdom, and to the Empire, Government, and Poſſeſſion of the ſame to exalt and bring; and that you the ſaid* Chriſtopher Layer, *for the more effectual Compleating and Perfecting the ſaid Treaſon and traiterous Intentions and Purpoſes aforeſaid, on the ſaid Twenty-Fifth Day of* Auguſt, *in the Ninth Year aforeſaid, and at divers other Days and Times, as well before as after, at* Laytonſtone *aforeſaid, in the ſaid County of* Eſſex, *by Force and Arms,* &c. *Maliciouſly and Traiterouſly did get ready, raiſe, and retain ſeveral Men, to the Jurors unknown, to take up Arms, and to levy and wage War within this Kingdom, againſt our ſaid Sovereign Lord the King, for the Traiterous Purpoſes aforeſaid; And that you the ſaid* Chriſtopher Layer, *for the more effectual Compleating and Perfecting the ſaid Treaſon, and traiterous Intentions and Purpoſes aforeſaid, on the ſaid Twenty-Fifth Day of* Auguſt, *in the Ninth Year aforeſaid, and at divers other Days and Times, as well before as after, at* Laytonſtone *aforeſaid, in the ſaid County of* Eſſex, *with other falſe Traitors to the Jurors unknown, by Force and Arms,* &c. *Maliciouſly, Deviliſhly, and Traiterouſly, did meet, propoſe, conſult, conſpire, conſent and agree, the Sacred Perſon of our now Sovereign Lord King* GEORGE, *for the traiterous Purpoſes aforeſaid, moſt wickedly to take, ſeize, impriſon, and detain in Cuſtody, againſt the Duty of your Allegiance, againſt the Peace of our ſaid Sovereign Lord the King, his Crown and Dignity, and againſt the Form of the Statute in that Caſe made and provided.*

Priſoner. If your Lordſhip will pleaſe to indulge me;

My Lord, I am brought here in Chains, in Fetters and in Chains: My Lord, I have been uſed more like an *Algerine* Captive than a Freeborn *Engliſhman*: I have been dragged thro' the Streets by the Hands of Goalers, and have been made a Shew and a Spectacle of.

I am now in a Court of Juſtice before your Lordſhip, and I hope the Time will come when I ſhall have a candid and fair Tryal, and not be made a Sacrifice to the Rage and Fury of any Party, or the Neceſſity of the Times. My Lord, I had not ſaid this, but I have been inſulted ſince I came into the Hall: A Gentleman came and told me, Either you muſt die, or the Plot muſt die. My Lord, This is Uſage inſufferable in a Chriſtian Nation; and I think I can lay my Hand upon my Heart and ſay, I have done nothing againſt my Conſcience.

Mr. Serj. *Pengelly.* If Mr. *Layer* hath any Objections to the Indictment, he may make them, but ſhould not go on in this Manner.

Priſoner. My Lord, I hope I ſhall have theſe Chains taken off, that I may have the free Uſe of that Reaſon and Underſtanding which God hath given me.

They

They have given me the Strangury to that degree that is very painful, and I am told your Lordſhip is afflicted with that Diſtemper.

I hope theſe Chains ſhall be taken off in the firſt Place, and then I hope I ſhall have a fair and a tender Tryal.

Ld. Ch. Juſt. There have been a great many things ſaid by you which we cannot examine into. You have given a General Charge of ſome People uſing you ill, your Expreſſions are not juſt and right; you charge no Particular Perſon; we can take no Notice of them.

As to the Chains you complain of, it muſt be left to thoſe to whom the Cuſtody of you is committed by Law, to make that Security that you may not make your Eſcape; when you come to your Tryal, then your Chains may be taken off. Conſider the Matter of this Day; if you have any Objections to the Indictment, the Court will hear them; if not, you muſt plead.

Mr. *Att. Gen.* I am ſure nothing is intended but that he ſhould have a fair Tryal; but to complain here of hard Uſage, of Chains, and Impriſonment, carries with it a Reflection of Cruelty, and we know what Effect theſe Things may have abroad.

My Lord, I don't believe there is any Occaſion for ſaying any thing more in Anſwer to this, than that the Priſoner hath been kept, as every Body in his Circumſtances are, when they have been attempting to make an Eſcape; there was an Attempt of that Nature made by him, and I believe no Body will ſay but on ſuch an Occaſion there is Reaſon to take particular Care that he may not eſcape. My Lord, As to any other Matters of Hardſhip, I hope what he ſays is not ſo; I verily believe it is not, but that he hath as much Freedom and Liberty as is proper and uſual. And as to what is ſaid in reſpect to the Man that inſulted him in the Hall, I know nothing of it, nor heard of it before; but can't but obſerve that it is an eaſy Matter for People to contrive ſuch a thing in concert together, with ſome particular Views; and I don't know but if the Fact was ſo, it might be ſome body ſet on by himſelf that did it.

Ld. Ch. Juſt. Alas! If there hath been an Attempt to eſcape, there can be no Pretenſion to complain of Hardſhip: He that hath attempted an Eſcape once, if true, ought to be ſecured in ſuch Manner as to prevent his Eſcaping a ſecond time. The Gentleman Goaler, what doth he ſay?

Gentleman-Goaler. My Lord, He never attempted to eſcape ſince he was in my Cuſtody.

Mr. *Att. Gen.* No, it was before.

Mr. *Soll. Gen.* My Lord, This Complaint is made for no other Purpoſe but to captivate the Minds of the By-ſtanders, without any juſt Grounds in the World; for if the whole of the Complaint made and aggravated in this ſolemn Manner be conſidered, it amounts only to this, That a Priſoner who ſtands charged with ſo great an Offence as High Treaſon, (who I admit notwithſtanding the Weight of that Charge, ought to have all the Juſtice and all the Opportunity of defending himſelf which the Law allows) I ſay it amounts to no more than this, That a Priſoner in theſe Circumſtances is brought up hither under a Guard, and in Fetters, as Perſons in that Condition uſually are. It is very well known that when this Gentleman was in the Cuſtody of a Meſſenger, he not only made an Attempt to eſcape, but actually eſcaped, got out of a Window two Pair of Stairs high, and from thence over the Water into *Southwark*; and ſince that is ſo, can there be any Colour to ſay that what was done afterwards was unwarrantable? I cannot help ſaying on this Occaſion, that it does not become the Candour a Perſon in the Priſoner's Circumſtances ought to ſhew, to aggravate and make ſuch a Miſrepreſentation of the Uſage he has received. As to what has happened in the Hall, we know nothing of it, nor can poſſibly tell how true it is. If any ſuch thing was ſaid, it is not impoſſible to have been by ſome Body that was ſet there on Purpoſe by the Friends of this Gentleman. I ſay thus much, my Lord, not becauſe I think it material to the Buſineſs of this Day, but becauſe I would not have it gone away with that there has been any Hardſhip put upon the Priſoner contrary to Law. No, His Majeſty, who makes the Laws of the Land the Rule and Meaſure of all His Actions, tho' he will have Juſtice done to Himſelf and His Government againſt any Perſon that ſhall conſpire to overthrow it, yet he will ſuffer no Hardſhips to be done even to ſuch Perſons, contrary to Law; and nothing has been done in this Caſe but what was legal and abſolutely neceſſary.

Mr.

Mr. *Hungerford.* My Lord, I beg to be indulged a few Words, That he is in Chains now is demonſtrable, and he hath told me when in the *Tower* with him, that they are ſo grievous to him that he cannot ſleep but in one Poſture, *viz.* upon his Back, and that he hath not attempted to eſcape out of the *Tower*, is given in Evidence by the Gent. Jailor, who hath, and will, I verily believe, Execute his Authority with all Humanity, for he now helps to hold up his Chains, otherwiſe the Priſoner could not Stand. My Lord, it is ſaid it is nothing but what is uſual in Caſes of this Nature. My Lord, I believe I might Challenge them to give an Inſtance where any Priſoner was ſhackled with Irons in the *Tower* before Mr. *Layer*; His Majeſty's Priſoners of the *Tower* are ſuch Strangers to this Uſage, that they had not the very Materials there, they were ſent for from *Newgate*, and I hope they will be carryed back again thither. Your Lordſhip hath hinted it as an Indulgence intended to him when he comes to his Tryal, that his Irons ſhall be taken off: But I humbly inſiſt upon it that by Law he ought not to be called upon, even to Plead, till his Fetters are off: My Lord *Coke* is clearly of that Opinion in his Pleas of the Crown; and it is admitted on all Hands, that when he comes to be Tryed his Shackles muſt be off, and upon a Debate it was ſo determined in *Cranburne*'s Caſe. The only Reaſon aſſigned for putting of Irons at all upon a Priſoner, is to keep him in ſafe Cuſtody, (for the Laws of *England* allow of no Tortures) and the Reaſon why they are taken off in the Courſe of Proceeding againſt him in a Court of Juſtice, ſeems to be that his Mind ſhould not be diſturbed by any Uneaſineſs his Body or Limbs ſhould be under; and as to the Diſtinction that his Chains ſhould be on when he Pleads, becauſe but for a Moment, or a ſhort Time, and off when he is Tryed, becauſe that will be of longer Duration; it is poſſible that what we have now to ſay may be as long as ſome Tryals. I ſhould (with Submiſſion) think that ſomething of the Dignity of the Court might be conſidered in this Matter, for a Court of Juſtice, the higheſt in the Kingdom for Criminal Matters, where the King himſelf is ſuppoſed to be Perſonally preſent, to have a Man Plead for his Life before them in Chains, ſeems to be very unſuitable. He is now before the ſame Awful and Juſt Tribunal which he will be before when he is Tryed, and why not therefore without Chains as well now as then; and as to the ſafe Cuſtody intended by the Irons, is the Man like to run away here? Is he not here too well Guarded to Eſcape?

Mr. *Ketelbey.* If your Lordſhip pleaſe to favour me a few Words: My Lord, what hath been his Uſage in bringing him up hither I cannot tell; what the Uſage of the *Tower* is with reſpect to the putting Chains upon Priſoners, I am ignorant of; but this I muſt beg Leave to ſay, that he is entitled to have his Chains off before he Pleads, in Point of Law: The Authorities for it are my Lord *Coke* in his 3d *Inſtit.* Fol. 34, who ſays, that when Priſoners come in Judgment to Anſwer, they ſhall be out of Irons, and all manner of Bonds, that their Pain may not take away their Reaſon, nor Conſtrain them to Anſwer, but at their Free Will; and in Fol. 35. he cites the Words out of the *Mirrour*, Chap. 5. Sect. 1. It is an abuſe that Priſoners be charged with Irons, or put to any Pain before they be Attainted; at the Tryal of *Cranburne*, when he was brought up here before my Lord Chief Juſtice *Holt*, he inſiſted that his Chains ſhould be taken off before he Pleaded, and it was ordered; This was likewiſe mentioned in the Tryals of *Dorrel*, *Gordon*, and *Kerr*; when they came up in their Irons to Plead, it was moved at firſt that thoſe Irons ought to be taken off. The Court declared that if the Priſoners inſiſted on it, it ought to be done: But they did not inſiſt on it, they rather Choſe to wave that Privilege than undergo the Trouble of having them knockt off in Court: There is a Reſolution in this Caſe: In the 10th Fol. of *Kelynge*, it is expreſly declared on a Conſultation of all the Judges in *England*, That a Priſoner ought to have his Irons taken off before he Pleads.

Ld. Ch. Juſt. The Caſe of *Cranburne*, you will find that Authority is when the Party was called upon to Plead, and was tryed at the ſame Time.

No Doubt when he comes upon his Tryal, the Authority is that he is not to be *in Vinculis* during his Tryal, but ſhould be ſo far Free, that he ſhould have the uſe of his Reaſon, and all Advantages to clear his Innocence: Here he is only called upon to Plead, and to Plead by Advice of his Counſel; he is not to be Tryed now, when he comes to be Tryed, if he makes that Complaint, the Court will

will take Care he ſhall be in a Condition proper to make his Defence; but when he is only called upon to Plead, and his Counſel by him to Adviſe him what to Plead, why are his Chains to be taken off this Minute, and to be put on again the next? It hath been ſaid (I cannot underſtand the Meaning of it) he is too well Guarded, I don't think a Man Charged with High Treaſon of this Nature, can be ſaid juſtly to be too well Guarded, eſpecially if it be true what hath been ſuggeſted, that he hath endeavoured to make his Eſcape; that will juſtify more than what the Law allows in other Caſes.

Mr. *Hungerford.* My Lord I beg leave to explain myſelf, what I mean by ſaying too well Guarded, I mean ſufficiently Guarded.

Ld. Ch. Juſt. Have you any thing more to offer? This is nothing but to Captivate the People, and to make Impreſſions upon them that are not Juſt, or elſe what ſignifies his Chains being taken off this Minute, and afterwards put on again the next? this is nothing but to bring the People to have an Unjuſt Senſe of the Crime with which he is Charged.

Mr. *Hungerford.* My Lord, we might humbly apprehend and hope that the better to prepare himſelf for his Tryal, he might continue without his Chains till after that Time.

L. Ch. Juſtice. I am of another Opinion, and if we ſhould order his Chains to be taken off, and he Eſcape, I don't know but we are Guilty of his Eſcape. As your Client hath ſaid, he ſhall have a fair and a juſt Tryal; but to make Objections in Matters of this Nature, is to caſt a Reflection on the Court, for not doing that which is not in their Power to do.

Mr. *Hungerford.* I am, my Lord, of Counſel with the Priſoner, I have been ſo appointed by your Lordſhip, and I aſſure your Lordſhip that I, and I dare Anſwer for the other Gentleman that is concerned in the ſame Service with me, ſhall make uſe of that Power and Privilege you are pleaſed to give us, as we ought.

My Lord, I have read over the Record and the Indictment, we have a Copy of both, according to the Direction of the Act of Parliament: I know we have at preſent a Right to Object to four ſorts of Things, *viz.* Miſwriting, Miſpelling, Falſe or improper *Latin*: We are confined to make whatever Objections occur to us on theſe Heads at this Time, and have not the Liberty to make it afterwards; but there are likewiſe ſome Objections of another Nature, which we may have Liberty to make at another Time.

I have here in my Hand the whole Record delivered to the Priſoner, in which, not only the Indictment is ſet forth, but the Commiſſion of *Oyer* and *Terminer*. After the Commiſſion hath enumerated the Names of the Commiſſioners, it goes on, and ſays what are the Offences that they are Authorized to Inquire of, as High Treaſon, Miſpriſions of Treaſon, and other Offences of a leſſer Degree; then it goes on and ſays what the Perſons ſhall be, concerning whom this Inquiry ſhall be made, *Et per quos vel per quem, cui vel quibus, quando, qualiter, & quomodo, & de aliis Articulis & Circumſtantiis, premiſſa & eorum quodlibet ſeu eorum aliquod vel aliqua, qualitercunq; concernen', plenius veritat'.* My Lord, I have look'd into this Form, and conſidered the Words with all the Accuracy I can, and have Endeavoured to render them into *Engliſh*, but cannot; I muſt ſay I look upon thoſe two Words *plenius veritat'*, as placed in this Record, to be Nonſenſe, and not capable of being rendered into *Engliſh*, for they import no meaning at all. It is a Blemiſh in the Commiſſion it ſelf, and if ſo, the Inquiry taken by Virtue of that Commiſſion, muſt fall to nothing, and conſequently this Indictment muſt be naught. I have been ſo exact I have look't into the Forms of theſe Indictments, taken by Virtue of Commiſſions of *Oyer* and *Terminer*. My Lord Chief Juſtice *Coke* hath, for the ſake of Poſterity, I ſuppoſe, given us the Form of the Commiſſion of *Oyer* and *Terminer* in his Time; in that Form of his theſe Words are entirely left out; they ſeem to me to be Words of no Signification, therefore we hope there ſhall be no further Proceedings till this is ſet right, and that the Indictment ſhall be quaſh'd.

Mr. *Ketelbey.* My Lord, there are other Objections, whether is it your Lordſhip's Pleaſure that we ſhould go on this firſt, or that we ſhould mention the others, and ſo go upon them all together?

Ld. Ch. Juſt. Make all your Objections together.

Mr. *Hungerford.* Then, my Lord, in the Cloſe of this Commiſſion it is ſaid the Jury were charged to Inquire, but doth not ſay for what; but that Ob-

jection may be made another Time, and therefore I will not trouble your Lordſhip with it now. My Lord, the firſt Thing that occurs to me in the Indictment itſelf, and which certainly, if we prevail in, the whole Proceedings are wrong; this Gentleman's Name is not Writ nor Spelt right, *Jurator' pro Dno' Rege*, &c. *ſuper Sacramentum*, &c. *quod Chriſtopherus Layer*, *Chriſtopherus* is there Writ with an E, whereas it ſhould be *Chriſtophorus* with an O; and if the Dictionaries and Lexicons are any Authority we are right.

Theſe are the Objections which have occurred to me, the Gentleman joined with me in this Service, hath ſome other Remarks to make.

Mr. *Ketelbey*. My Lord, As it is your Lordſhip's Pleaſure to appoint us to be Counſel for this Gentleman, I ſhall not make any Apology for our appearing on his Behalf, leſt I receive the ſame Reproof from the Court, which a Gentleman in my Station once received upon a like Occaſion.

My Lord, We are at this Time proper to lay theſe four Points under your Lordſhip's Conſideration, which if we had ſtaid till after Plea pleaded by the *Priſoner*, would have been too late; that Matter hath been often ſettled and determined by your Lordſhip, and I ſhall ſay no more to that, I believe they don't object to it; now therefore is the only Time to make theſe Objections.

My Lord, The firſt that hath been mentioned by Mr. *Hungerford* is in the Caption of the Indictment as to theſe Words *plenius Veritatem*; in our Copy, it is *plenius Veritat'* with a Daſh that it may be taken in any Caſe, but I ſubmit it to your Lordſhip whether it can be made Senſe, or is proper *Latin* in any of the Caſes either of the Singular or Plural Number, that there can be made any Grammar of it, or that there is any regular or preceeding *Verb* that can govern it in any Caſe whatſoever; they might have put in any Words entirely Inconſiſtent with reſpect to the Part preceeding or ſubſequent; leave out theſe Words and the other Part of the Sentence is Plain and Intelligible, but, put in the Words and it is otherwiſe.

And eſpecially ſince we have the Authority of my Lord *Coke* where theſe Words are not in; how they came to be put in, or of what Uſe they are, your Lordſhip will obſerve on reading the Caption of the Indictment, *Ad Inquirend'*, &c. *plenius Veritat'*.

Taking Exceptions to the Caption of the Indictment hath formerly been objected to, but I believe that Right cannot be diſputed at this Time.

As to the ſecond Exception, That, in relation to *Chriſtopherus*, we ſubmit it to your Lordſhip if that be not expreſly within the Defects mentioned in the Act of Parliament Miſwriting, Miſpelling, falſe and improper *Latin*; nay, whether it is not Subject to Cenſure under each of theſe four Heads.

My Lord, It was impoſſible to bring all my Authorities, upon this Point, along with me; but I have here in Court ſeveral of the beſt Dictionaries and Lexicons which ſhew the true Word to be *Chriſtophorus*, and I believe the Gentlemen of the other Side can't produce one Inſtance in any authentick Book either *Greek* or *Latin*, but it is always Spelt with an O and not with an E, it is *Chriſtophorus* from φέρος, the *Præteritum Medium* of the *Greek Verb* φέρω; and the Rules of Etymology and Formation of *Greek Verbals* evince that it muſt be ſo and cannot be otherwiſe; and by all the *Latin* Dictionaries, the *Latin* Word for *Chriſtopher* is *Chriſtophorus*.

Ld. Ch. Juſt. How do we know what his Name is? You muſt Plead it in Abatement; we don't know his Name; he might be chriſtened *Chriſtophorus* for ought we know.

Mr. Ketelbey. My Lord, for falſe Spelling ——

Ld. Ch. Jus. How doth that appear to us? You are wrong in making your Objection at this Time, we can't take Notice what his Name is; in the Record of the Indictment he is called *Chriſtopherus*. Can we enquire what his true Name is, whether in Engliſh it is *Chriſtopher* or *Chriſtopherus*? We can't tell what his Name is, perchance his Name may be *Chriſtopherus*, and the Name by which he might be chriſtened; I deſire I may not be underſtood as if I would prevent you from offering any think that is Material for your Client, but if I can ſatisfy you that you are improper in Form, it may ſave the Time of the Court; but if you can offer any thing Material, we are ready to hear it.

Mr. *Ketelbey*. My Lord, I hope your Lordſhip will pardon me, here is the Life of a Man concern'd, and as I would not willingly offer any thing to your Lordſhip that in the like Caſes hath been over-ruled, ſo neither would I

omit

omit any thing that may be material for the Priſoner, whoſe Defence the Court has intruſted us with; therefore I will go on to the other Objections that we think to be improper *Latin*; *compaſſavit*, *imaginatus fuit*, & *intendebat*. Theſe are the Words, I don't know whether this *Latin* will go down in *Weſtminſter-Hall*, but I am ſatisfy'd it would not in *Weſtminſter-School*.

Here is the *Et Intendebat*, *Et* a Conjunction Copulative between Verbs in ſeveral Tenſes; Here is *Compaſſavit* the Preterperfect Tenſe, *Imaginatus fuit* the Preterperfect Tenſe, and *Intendebat* the Preterimperfect Tenſe: Why ſhould not the laſt Verb have been put into the Preterperfect Tenſe, according to the Rules of Claſſical *Latin*, as well as the two former? therefore we ſubmit it how far it will go as to vitiating the Indictment in Point of falſe *Latin*.

My Lord, There is one Word more, (*Seiſiend'*) the Overt-Act, as laid in the Indictment, is, that the Priſoner *Conſpiravit ad ſacram Perſonam Domini Regis capiend', ſeiſiend', & impriſonand'*; by the Words that are coupled with it, I ſuppoſe *Seiſiend'* is intended to mean, the taking, or laying violent Hands upon His Majeſty's Perſon; but ſure there was never ſuch a Word in any Indictment before, nor to be found in any Author whatſoever; 'tis neither Claſſical *Latin*, Law *Latin*, nor to be met with a mong *Littleton*'s Barbariſms, never naturalized nor inoculated into Antient or Modern uſe; 'tis a mere fictitious Word coin'd for this very Purpoſe without any Precedent, any one Inſtance to warrant it.

My Lord *Coke*, in his *1ſt. Inſtit. Fol.* 17, ſays, That the Word *Seiſitus* cometh of the *French* Word *Seiſin*, and that in the Common Law 'tis properly applied to Freehold, in Contradiſtinction to *Poſſeſſionatus*, which relates to Chattels: For *Seiſitus* and *Poſſeſſionatus* are mentioned as Terms of Art, Technical Words in the Law, that by long Uſe have acquired to themſelves one peculiar and determined Signification; for that Reaſon I don't object againſt the Word *Compaſſavit* in this Indictment, it having been always uſed in Indictments of High Treaſon to expreſs compaſſing the Death of the King, ever ſince the Statute of *Edward* the Third; ſo *Murdrare*, *Felonia*, and ſeveral others, are known Terms of Art in the Law. But, where did they meet with the Word *Seiſiend'*,? And if they would fancy it to be a Gerund of ſome unknown Active Verb, how came they to give it this Senſe, to make it ſignify the ſame as *Capiendum*?.

My Lord, I muſt beg Leave to ſay, that I apprehend the very Gift of this Indictment, (at leaſt ſo much of it as relates to this Overt Act) entirely depends upon this Word *Seiſiend'*; and if it does appear to your Lordſhip to be inſignificant, barbarous, falſe or improper *Latin*, I hope we are proper under the Authority of the late Act of Parliament, humbly to inſiſt upon this Objection, and that it is ſufficient to overthrow the whole Indictment.

My Lord *Coke*, in *Calvin*'s Caſe, ſays, That Indictments for High Treaſon ought to be drawn with the greateſt Accuracy and Nicety; but if Mr. *Attorney* will pleaſe to ſhew me, that this Word was ever once uſed to this Purpoſe, I will waive my Objection, and admit it to be as elegant a Word as any in the whole Indictment.

Ld. Ch. Juſt. I think before the King's Counſel make any Anſwer to that, we had beſt have that Part of the Indictment read, that we may the better judge of it.

Cl. of the Cr. reads, *Quod tu* Chriſtopherus Layer, *&c. ad Capiend' Seiſiend' & Impriſonand'* &c.

Ld. Ch. Juſt. Ad Capiend' & Impriſonand'. Won't theſe Words do, ſuppoſe the other Word *ad Seiſiend'* inſignificant?

Mr. Serj. *Pengelly*. My Lord, Theſe Objections have been made with ſo much Ceremony, and uſher'd in with ſuch Pomp, as if ſomething elſe was meant, than the Quaſhing this Indictment.

We apprehend ſome of them are improper, and others which may be proper at this Time, are of no Force.

The Objections to the Commiſſion, we apprehend are improper; it is not in the Power of the Court to quaſh the Commiſſion, and therefore to make Mention of Miſpelling, and of falſe and improper *Latin* therein, ſignifies Nothing. As to the Indictment itſelf, the Court hath a Power, and if they think proper, if there be ſufficient Cauſe, may quaſh it; but the Commiſſion iſſues under the Great Seal, and that Part of it returned here, is not under the Power of this Court to deſtroy; but upon reading it, we think this Objection will

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quite vaniſh; theſe Words are uſed in all Commiſſions of the like Nature, and are inſerted in the very Form of the Commiſſion, and the Caption of the Indictment publiſh'd in the Treatiſe, allow'd by all the Judges of *England*, call'd, *A Collection of Statutes relating to High Treaſon, compos'd for the Aſſiſtance of the Juſtices in* Scotland; and becauſe of the ſuppos'd Difficulty of underſtanding theſe Words, I will, for the Sake of the Gentlemen of the other Side, read them in the Order they are to be conſtrued, thus, *Ad Inquirend' plenius Veritatem per ſacrum probor' & legal' Hom', &c. de quibuſcunq; Proditionibus Miſpriſſionib' &c. per quoſcunq; & qualitercunq; Hit' Fact' &c. ac de aliis Articulis, &c. & ad eaſdem Prodition' & al' Premiſs' audiend' & terminand'*; Here they are to enquire more fully the Truth, of and concerning all Treaſons, Miſpriſions of Treaſon by any Perſon whomſoever committed, *&c.* And if the Words (*plenius Veritat'*) had immediately followed the Word (*Inquirend'*) every Body at firſt reading muſt be ſatisfied that no Objection could be made thereto; and the Objection now is only made on account of the placing theſe Words at the End of the Sentence. But it makes no Difference in the Conſtruction or Senſe; how otherwiſe can it be conſtrued or underſtood? But to inquire more fully the Truth of thoſe Offences, there enumerated, and what Perſons are guilty, *&c.* And therefore I take it, that the Form of the Commiſſion is proper, and will be juſtified, not only by the Senſe of it, but by the uſual and common Courſe of Proceedings.——— As to the next Objection, we apprehend that hath been already over-ruled; the Word (*Chriſtopherus*) with an *E*, and not with an *O*: And if there be any Difference in the Name, that it muſt be pleaded in Abatement, becauſe if they would take Advantage of it, they muſt plead that his Name is otherwiſe than is expreſſed in the Indictment. This Man's Name *Chriſtopherus* may be with an *E* as well as an *O* for ought appears: But we apprehend, that the Name *Chriſtopher* is ſeldom writ in *Latin* with an *O*, but uſually with an *E*; if they think there is any thing material in the Objection, let them plead it in Abatement, and we are ready to anſwer them.

My Lord, As to the next Objection, that the Three Verbs which charge the High Treaſon, *viz. Compaſſavit, Imaginatus fuit, & Intendebat*, that they are not in the ſame Tenſes; we ſubmit that in the ſtricteſt *Latin*, there is no Neceſſity the laſt Verb ſhould be of the ſame Tenſe with thoſe that go before the Copulative (*Et*) ſure, tho' *Compaſſavit* and *Imaginatus fuit* be in the Preterperfect Tenſe, yet *Intendebat* may be well added in the Preterimperfect Tenſe, and that will make no Difference, they being all three alledged and found in the Time paſt, before the Indictment exhibited.

My Lord, The next Objection which they ſeem to rely upon, is at the Concluſion of the Indictment, and that is to the Word (*Seiſiend', &c.*) They ſay, the Precedents have been look'd into, and there is no ſuch Word to be found in any Indictment of High Treaſon; I beg Leave to ſay in Anſwer, that ſince the Aſſaſſination-Plot againſt King *William*, there hath been no ſuch villanous Attempt of this Nature; therefore no Wonder if it cannot be found in other Indictments where there has been no Occaſion for the Word. This is an Overt-Act of conſpiring and agreeing to take, ſeize, and impriſon, the very Perſon of the King; and it muſt be laid according to the Fact itſelf; but if this be not a proper Word, tho' I think the Word is proper and ſignificant, yet becauſe this is not made uſe of in alledging the Treaſon itſelf, but the Overt-Act or Evidence of the Treaſon, it will not vitiate that Part of the Indictment: For if any one of theſe Words alledged is proved upon the Tryal, the Priſoner ought to be found Guilty, whether he compaſſed to take the Perſon of the King, or to ſeize His Majeſty, or to impriſon and detain Him; any one of theſe Attempts is ſufficient, if proved, and the Priſoner ought to be convicted. There was an Objection of this Nature taken upon one of the Tryals for High Treaſon, before my Lord Chief Juſtice *Holt*, but he was pleaſed to ſay, That in alledging the Overt-Acts, where ſeveral Overt-Acts are alledged, or ſeveral Words are uſed to expreſs the ſame Overt-Act, if they were miſtaken in one of the Words, yet if there were other Words ſufficient in the Indictment to expreſs the Overt-Act; or altho' one entire Overt-Act was inſufficiently alledged, yet if there was another Overt-Act well laid, the Court would not quaſh the Indictment, becauſe this would be to deprive the Crown of the Right of giving Evidence to prove any other Part of

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the ſame Overt-Act, or any other Overt-Act alledged in the Indictment; ſo that we hope this is not a proper Objection, becauſe the Court cannot quaſh the whole Indictment if any other Overt-Act is ſufficiently expreſſed, but the Indictment muſt ſtand.—— But the Word is proper, becauſe the Words *Seiſire & ad Seiſiend'* are Terms known in the Law, and it is frequently uſed in Actions of Treſpaſs, *Quod cepit, ſeiſivit, & abduxit*, or *aſportavit*. My Lord, we think the Word *ad ſeiſiend'* is a proper Expreſſion in this Caſe, to ſignify the Attempt or Deſign to ſeize and apprehend the Perſon of His Majeſty; and we hope there is Nothing in theſe Objections.

Mr. *Att. Gen.* My Lord, We are not againſt the Gentlemen of the other Side's inſiſting upon every thing that may be for their Client's Service. But ſure theſe Objections have Nothing in them; there is no Colour of Reaſon to ſupport them. My Lord, as to the Exception taken to the Commiſſion, Let us conſider, if there was any Weight in it, how it can poſſibly be taken at this Time.—— By Virtue of the Act of Parliament paſſed in the 7th Year of the Reign of his late Majeſty King *William*, it is provided, That no Indictment for any of the Offences aforementioned in that Act, which are Treaſons, *&c.* nor any Proceſs or Return thereupon, ſhall be quaſhed on the Motion of the Priſoner or his Counſel for Miſwriting, Miſpelling, or falſe or improper *Latin* (under which laſt Words, the Counſel for the Priſoner would entitle themſelves to take this Objection) unleſs ſuch Exception ſhall be taken and made in the reſpective Court, where ſuch Tryal ſhall be, by the Priſoner or his Counſel, aſſign'd before any Evidence given in open Court upon ſuch Indictment.—— But the Commiſſion is a Thing diſtinct, and neither Indictment, Proceſs, nor Return thereupon. And by Conſequence no Objection can be made to the Commiſſion at this Time by Virtue of that Act: But however, becauſe they may not trouble us with theſe Objections at another Time, we beg Leave to anſwer them now.

My Lord, Theſe Words (*plenius Veritatem*) are the very Point of the Inquiry of the Commiſſioners of *Oyer* and *Terminer*, for they are to enquire, by the Oaths of Lawful Men of the County, fully of the Truth of all Treaſons, Miſpriſions of Treaſons, *&c.* committed in that County, and that is the Tenour of the Commiſſion. In the Book printed by the Approbation of all the Judges of *England*, ſoon after the Union of the two Kingdoms, all the Rules and Methods of Tryal in Caſes of High Treaſon are laid down, there is the Commiſſion of *Oyer* and *Terminer* printed at large; and it is exactly in the ſame Words with this; and your Lordſhip may pleaſe to obſerve, that immediately after thoſe Words *plenius Veritatem* there is a Comma, and none before; the whole Sentence before is entire, and therefore in Conſtruction theſe Words, *plenius veritatem*, refer to the Words *ad inquirendum*, at the Beginning of the Sentence; and the Senſe is plain, that the Commiſſioners are to enquire by the Oaths of good and lawful Men of the County, and by other Ways and Means, *&c. plenius veritatem, de quibuſcunque Proditionibus, Miſpriſionibus, &c.* and then the Commiſſion goes on, and there comes after the Comma, *& ad eaſdem Proditiones & alia Premiſſa hac vice audiend' & terminand' ſecund' leges, &c.* In our legal Proceedings in *Latin*, we are not ſo nice as to confine our ſelves to the *Latin* of the Claſſicks; but this is very proper *Latin*, and the diſjoining of the Words *plenius veritatem*, from the Words *ad inquirendum*, by which they are governed by the Interpoſition of ſo many Words, is no Objection; for nothing is more common in the beſt Authors, than placing the moſt material Words at the Cloſe of a very long Sentence, which in Point of Conſtruction muſt refer to others at the Beginning. And therefore I hope we ſhall hear no more of this Objection.

As to the *Chriſtopherus* being with an E inſtead of an O, that is not a proper Objection at this Time. No Man will pretend to ſay, he may not be Chriſten'd by that Name, as *Henry* is the uſual Name, *Harry* is the common nick Name for *Henry*, yet a Perſon may be Chriſten'd *Harry*, and ſo have many Perſons been.

But, my Lord, we ſay this is a Word uſed in all the Law Proceedings for *Chriſtopher*, and ſpelt in this very manner with an E.

As to the other Objection; as to the Alteration of the Tenſe in the Words *compaſſavit, imaginatus fuit & intendebat*: The Objection is made as if we were tied down to thoſe exact Forms of Grammar; if the Senſe is plain, if the Facts are explained by proper *Latin* Words, it is enough for us, whether they

they are carried on ſometimes in one Tenſe, and ſometimes in another, provided they ſufficiently charge the Fact to be done.

The laſt Objection is the Word *ſeiſiend'*, That it is not a Word known in Law; if that would hold, it would not quaſh the Indictment, becauſe there are ſeveral other Words to the ſame Effect, which ſufficiently expreſs this villainous Overt-Act, without this Word *ſeiſiend'*; for it is laid, that the Priſoner did propoſe, conſult, and agree, *ad ſacram perſonam dicti Domini Georgii nunc Regis, &c. capiend', ſeiſtend', impriſonand', & in Cuſtod' detinend'*. But we inſiſt, that this is a very proper Word. In the Court of Exchequer the Words uſed in Caſes of Seiſures is *ſeiſivit*, Writs iſſue commanding the Sheriff *ſeiſire* ſuch Lands, *&c.* into the King's Hands, and the Sheriff returns *ſeiſiri feci*; ſo that if this Word was look'd upon as an unknown and unintelligible Word, what muſt become of many Judgments and Proceedings in that Court? It is a Law Word that is here applied to the Perſon of our Sovereign, and as it is in the Proceedings beforementioned applied to Seizing Lands, *&c.* Why may it not be applied to the Seizing of a Perſon? And then if *ſeiſire* be proper, the Gerund from that muſt be *ſeiſiendum*. And therefore we apprehend, my Lord, that this is a plain Anſwer, and that there is no Colour of Reaſon for this Objection.

Mr. *Soll. Gen.* My Lord, As I apprehend theſe Exceptions have no real Foundation, nor ſcarce any Colour in themſelves, ſo I don't know whether it would not be giving too much Credit to them, for ſo many of the King's Counſel as attend your Lordſhip on this Occaſion, to ſpend the Time of the Court in giving Anſwers to them. The true Anſwers, and all the Anſwers which can be given, have been already offered and very fully enforced; and therefore I ſhall not trouble your Lordſhip with any thing further.

Mr. *Hungerford.* My Lord, I beg a few Words by way of Reply as to the firſt Objection, we hope it is not yet anſwer'd. We object againſt the Words *plenius veritat'* as Words of no Senſe or Meaning, as rang'd or plac'd in this Indictment. Mr. *Attorney* hath endeavoured to make them Senſe by tranſpoſing them, and inſerting *plenius veritat'* Ten Lines before what the Indictment hath. We muſt take the Words as they are in the Indictment: And if they are not Grammar or intelligible there, the Objection ſtill holds. I know not what Liberty the King's Counſel hath to tranſpoſe the Words. I know School-Boys ſometimes pick up Words without Regard to Grammar, to make what thay call Nonſenſe Verſes: But I never knew an Attempt before, by tranſpoſing of Words, to make Nonſenſe Grammar, Proſe, or Poetry. There is one Thing that hath been mentioned, that the Judges have ſettled the Forms of Proceedings in Caſes of High Treaſon by Direction of the Houſe of Lords, and this *plenius veritat'* is got into the Form inſerted in that Treatiſe: That Book, my Lord, notwithſtanding the ſolemn Allowance of it by the Judges, is not, with Submiſſion, a concluſive Authority: It was denied to be ſo in the Caſe of *Mathewes*; which Caſe I can the better ſpeak to, becauſe I was of Counſel in it. The Objection taken in the Caſe of *Mathewes* was to the Pannel of the Jury, for that the Addition and Places of Abode of the Jurymen were not inſerted in the Pannel, according to the Directions of that Book, the better to guide the Priſoner in his Challenges. My Lord Chief Juſtice *King*, who preſided at that Tryal, aſſiſted by all the then Judges of *England*, (except your Lordſhip who was abſent) over-ruled that Exception; and I think the reſt of my Lords the Judges, now preſent, concurred in that Reſolution. Wherefore, if we have no Authority to combat with, but the Authority of that Book, which hath been ſolemnly deny'd to be a good Authority, we hope this Objection ſhall ſtand.

My Lord, As to the Word *Chriſtophorus*, without Doubt the Etymology of the Word is as Mr. *Ketelbey* hath opened; and there is this further to juſtify that Way of Spelling which we contend for, even the two firſt Syllables of the Word in the Indictment are *Chriſto*, as the Greek with an O, and not *Chriſtu*; and in Conformity with the Greek Spelling in the two firſt Syllables of the Word, we hope the next Syllable muſt be ſpelt ſo too: But ſince it is contended, that the Subſtance of this Objection muſt be put into a Plea in Abatement, we ſhall wait the Direction of the Court as to that Matter. As to the Words *compaſſavit, imaginatus fuit & intendebat*, there is ſomething in that Objection too, they all relate to a Time paſt, but they are in different Tenſes or Times; there is the Preterperfect and Preterimperfect Tenſe, and there is the Conjunction Copulative between them, as if both Tenſes implied the ſame Times, which it

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is certain they do not, and therefore they Charge nought; for a Thing cannot be done lately and formerly, and both at the ſame Time.

As to the other Words *ad capiend' ſeiſiend' & impriſonand'*, we are upon the Forms of an Indictment, and muſt be governed by the uſual Forms: I believe there is no Inſtance on Record, where theſe Words are made uſe of in any Accuſation of this Kind; for which Reaſons we humbly hope this Indictment ſhall be quaſh'd.

Mr. *Ketelbey*. My Lord, I beg Leave to offer a Word or two by way of Reply; Mr. Serjeant *Pengelly* is pleaſed to ſay that Senſe may be made of theſe Words, and that *plenius veritatem* as it is, is good *Latin*, by lifting theſe Words from the Bottom of the Sentence to the Top, and making them follow *ad inquirendum*. I believe four Parts in five of the Caption interfere between the *inquirendum* and the *plenius veritatem*, a whole Catalogue of Offences, ſeveral independent Sentences, different Times, Perſons, Places, Things all ſtationed between, and yet theſe Words are to be united: I would be glad to know by what Rule of Grammar this can be done.

As to the Word *Chriſtopherus*, I ſhall not further inſiſt upon that as a proper Objection under this Head, becauſe your Lordſhip ſeems to be of an Opinion that we ought to have pleaded it in Abatement.

As to the Word *ſeiſiend'*, it hath been ſaid it is a Word well known in the Exchequer, but they don't ſhew one Inſtance where-ever it was uſed: Indeed they mention a Precept to the Sheriff *ſeiſiri facias*, and the Return *ſeiſiri feci*, but what is that to *ſeiſiendum*; the one is juſtified by Uſage, the *ſeiſitus* as *ſeiſiri*; beſides *ſeiſiri* is there uſed in the very ſame Senſe which the Law hath impoſed upon it; it is to be put into Poſſeſſion, the Lands are ſo delivered by the Sheriff into the Hands of the King, that he becomes ſeiſed thereof, *ut de fædo & in jure Coronæ*, till an *Amoveas manus* be obtained: But if ever that Word was put into any Indictment to ſignify to ſeize and impriſon the King, 'tis entirely unknown to me.

Indeed here is one Piece of Doctrine offered, that if it holds good puts an End to all our Objections, and even to the Act of Parliament on which they are founded; but I muſt own it is entirely new to me: We are told there are other Words in the Indictment, and other Overt-Acts, and if one Act is ſufficiently expreſſed by any one Word, though there be Words that are improper and falſe *Latin*, yet it ſhall not vitiate the Indictment; what avails then this Act that empowers us to make Objections to Miſwriting, Miſpelling, falſe and improper *Latin*? 'Tis impoſſible to ſuppoſe, that whoever hath the Drawing of an Indictment ſhould make Faults and blunder on from firſt to laſt: No, in an Indictment for High Treaſon the greateſt Care is, or ought to be taken in the Drawing of it; and where the Life of a Perſon, and all that is valuable is at Stake, the Law will not ſubject any one to ſuch dreadful Penalties and Forfeitures for an Offence expreſſed only by Words of an unknown or dubious Signification; and therefore, we hope that this goes to the whole, and that the Indictment ſhall be quaſh'd, or elſe it would be nugatory for us to be allowed to take Exceptions to one Part of the Indictment if the other were good.

I believe Mr. *Attorney* won't ſhew any Inſtance, (I ſubmit it to his greater Experience) where he ever knew one Overt-Act in an Indictment ſet aſide, and the reſt of the Indictment held good: Exceptions have ever ſince the making this Act been taken and argued by Counſel, and determined; but if this be a ſufficient Anſwer, ſurely they ſpent the Time of the Court to very little Purpoſe, in debating whether there were any faults in the Indictment, when it was ſo eaſy to ſhew it was not faulty throughout. Mr. Serjeant *Pengelly* has been pleaſed to mention the Opinion of my Lord Chief Juſtice *Holt*, upon one of the Tryals before him, that altho' one entire Overt-Act was inſufficiently alledged, yet if there was any other well laid, the Court would not quaſh the Indictment, I wiſh he had told us in what Tryal, or where it is to be found, for I don't remember it in any of the Printed Tryals: As to what was mentioned, with regard to the Authority of that Book, for the Words *plenius veritatem*, Mr. *Hungerford* rightly obſerved, that the Authority of that Book was utterly denyed at the Tryal of *Mathewes*; your Lordſhip was not there, my Lord Chief Juſtice *King* preſided then upon the Bench, that Book particularly directed, that not only the Names of the Jurors ſhould be incerted in the Pannel, but alſo their Additions, and the Places where they lived, inſtead of that, the Copy of

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the Pannel delivered, conſiſted only of a long Liſt of bare Names, no Additions, nor where they lived; whereupon we made our Objection, and inſiſted on the Authority of that Book. Notwithſtanding which the Objection was then overruled, and conſequently we hope we ſhall not be pinn'd down to the Authority of this Book any more in this Caſe, than the other; for theſe Reaſons we hope your Lordſhip will be of Opinion that the King's Counſel have not given a full Anſwer to our Objections, and that the Indictment ſhall be quaſhed.

Mr. *Hungerford.* My Lord, I beg leave to hand up this Precedent of my Lord *Coke*'s, where theſe Words are entirely left out.

Ld. Ch. Juſt. What is the uſe you would make of ſetting up an Extrajudicial Opinion of my Lord *Coke*'s, as you call it, againſt the Opinion of all the Judges? Becauſe it is not in my Lord *Coke*'s Form, therefore it is not neceſſary or right; but at the ſame time you would have us Governed by my Lord *Coke*'s Opinion, you would have us reject the Opinion of all the Judges. My Lord *Coke* may be wrong; the Opinion of all the Judges in an Extrajudicial Caſe may be wrong; but it would be very ſtrange to give a greater Weight to the Extrajudicial Opinion of my Lord *Coke*, becauſe he hath left the Words out, than to the Opinion of all the Judges that have put the Words in; neither is concluſive, but certainly the Opinion of all the Judges of later Times, muſt have more Weight, than the Extrajudicial Opinion of a ſingle Judge at any former Time.

As to the Matter of this Objection, you ſay that in the Recital of the Commiſſion of *Oyer* and *Terminer*, in the Caption of the Indictment, it is ſaid the Commiſſioners had Authority to inquire *de quibuſcunq; Proditionibus*, &c. *plenius Veritatem*; *plenius Veritatem* comes in afterwards: We have been told of *Claſſical* and *Ciceronian Latin*, and if there be any Regard to be had to that, is any thing more common in every Part of *Cicero*, than to put Words laſt, that in Conſtruction muſt come firſt? I don't know any Rule that is laid down when the Words coming laſt, are in Conſtruction to be taken firſt, but only this, that the Conſtruction is to be according to the Natural Senſe and Import of the Words; and if ſo, then in the Authority of theſe Commiſſioners, where it is ſaid they were to inquire *de quibuſcunq; Proditionibus*, &c. *plenius Veritatem*, in Conſtruction the laſt Words muſt be taken firſt. You ſay as they ſtand it is Nonſenſe and ſignifies Nothing, and the Words are Nugatory; 'tis not material where they ſtand, they muſt be taken in that manner of Conſtruction as would make them ſignificant, that is, by taking the laſt Words, *plenius Veritatem*, to go firſt in Conſtruction; then it is very proper and juſt, and all will be well.

As to the Matter of the Miſnomer that you have given up, and very juſtly, for you are proper to Plead that in Abatement.

The next Objection is, you ſay here is Improper *Latin*, *Compaſſavit* in the *Preterperfect Tenſe*, *Imaginatus fuit* in the ſame *Tenſe*, and *Intendebat* in the *Preterimperfect Tenſe*; take theſe Words by themſelves, ſuppoſe it had been *Compaſſavit* only, *Imaginatus fuit* only, or *Intendebat* only, Would not either of theſe Words, whether in the Preterperfect or Preterimperfect Tenſe, have been ſufficient to have charged Mr. *Layer* with having ſome Time before compaſs'd and imagin'd the Death of the King? Every one of theſe Words charge him with the Intent of Compaſſing, and Imagining, and that relates to a Time that is paſt, whether *Preterperfect Tenſe*, or *Preterimperfect*, that is not Material: Then as to one of the Overt-Acts, as here be a great many to which no Objection is made, the High Treaſon is Compaſſing and Imagining the Death of the King; the Overt Acts are ſeveral, either is ſufficient to maintain the Treaſon of Compaſſing and Imagining the Death of the King. One of the Overt-Acts is, that he did Deſign, Conſult, and Agree *ad Capiend'*, *Seiſiend'*, *& Impriſonand'*, the Perſon of the King. Suppoſe it had been *Capiend'*, *& Impriſonand'*, then you ſay it had been well enough, but the putting in this Word *Seiſiend'*, will vitiate the whole, becauſe it is an improper and vitious Word. I don't know that, nor dare not ſay in a Court of Law that it is an improper and vitious Word: You are told of a Court of Law where the Word is uſed, and hath the ſame Signification as in the Indictment; as to ſeize Lands into the Hands of the King, to ſeize Lands, or to ſeize the King's Perſon, the Word is the ſame, and if *Seiſire* is good, and enough to ſignify to ſeize Lands, *Seiſire* is enough to ſignify to ſeize the King's Perſon, therefore I think it is a Proper Word,

Word, but whether it is or not, there is ſufficient in the Indictment to maintain the Charge againſt Mr *Layer*; for he is charged with a Conſultation and Agreement to take the King, with a Conſultation and Agreement to impriſon and detain the King in Priſon: theſe are ſufficient without the Word *Seiſiend'*, but the Word *Siſiend'* hath been a Law Word, and uſed in our Proceedings at Law, never objected to; but if we ſay it would not ſignify a ſeizing, we muſt ſet aſide half the Proceedings in the Court of *Exchequer*. Theſe are all the Objections you have made, and in my apprehenſion they can be of no uſe or ſervice to your Client; they ſignify nothing.

Mr. *Jus. Powys.* I am of the ſame Opinion. Not the leaſt Doubt remains with me.

Mr. *Jus. Eyre.* I think the Caption of the Indictment is in common Form, and the Exceptions to the Indictment it ſelf are fully anſwer'd.

Mr. *Jus. Forteſcue Aland.* I am of the ſame Opinion, and think the Objections to be of no Weight.

Ld. Ch. Jus. The Objections being all over-ruled: demand of him what he hath to plead.

Cl. of the Cr. Chriſtopher Layer; Hold up your Hand. How ſay you, *Chriſtopher Layer*, are you Guilty of the High-Treaſon whereof you ſtand Indicted or not Guilty?

Priſoner. I deſire my Plea of Miſnomer may be receiv'd. And I plead not Guilty as to the Fact.

Cl. of the Cr. reads the Plea.

Et Chriſtophorus Layer ad Barram hic duct. in propria perſona ſua venit, & habito auditu Indictament. predict. dicit quod ipſe eſt perſona in Indictament. predict. mentionat. & intenſ. per nomen Chriſtopheri Layer, nuper de paroch. Sti. Andree Holborne in Com. Mid. Ar. & verſus quem Indictament. predict. prolat. exiſtit pro alt. Proditione predict. & dicit quod ipſe ad Indictament. illud reſpondere compelli non debet, quia dic. quod ipſe diu ante tempus caption. Indictament. predict. necnon ante tempus offenſi in Indictament. ill. ſpecificat. & fieri ſuppoſit. Baptizatus fuit per nomen Chriſtophori, & per id nomen Chriſtophori ſemper a tempore Baptization. ſue hucuſq; vocat. nuncupat. & cognit. fuit, & hoc parat. eſt verificare. unde ex quo ipſe non nominatur in Indictament. predict. per nomen Chriſtophori, petit judicium de Indictament. illo, & ſi ipſe ad Indictament. predict. ulterius reſpondere compelli debeat, &c. & quoad prodition. in Indictament. predict. mentionat. ipſe predict. Chriſtopherus Layer dicit quod ipſe in nullo eſt inde culpabilis, & inde de bono & malo ponit ſe ſuper Patriam, &c.

J. Hungerford.
Abel Ketelbey.

Ld. Ch. Jus. Your Plea is received. He hath pleaded in Abatement firſt, and then pleads over to the Treaſon. What ſay you to it?

Mr. *Serj. Pengelly.* It can't be expected that we ſhould have a Replication ready to their Plea in Abatement: we were not aware of this; therefore we ought to have time to draw up a Replication.

Ld. Ch. Jus. What ſay you to it?

Mr. *Hungerford* and Mr. *Ketelbey.* My Lord, we have no Objection to it.

Ld. Ch. Jus. Well, the Plea is recorded. Conſider now, the Queſtion on this Plea is, whether he was baptized by the Name of *Chriſtophorus* or *Chriſtopherus*.

Mr. *Serj. Pengelly.* My Lord, to morrow and next Day being Holy-Days, (elſe we ſhould have been ready by to morrow) we therefore pray, that he may be brought up again on *Saturday* by Rule of this Court.

Mr. *Hungerford.* I have ſome doubt whether it can be by Rule, or by *Habeas Corpus*.

Ld. Ch. Jus. When once a *Habeas Corpus* hath been granted, and he is brought before us, we can order him to be brought again by Rule. He muſt be taken back again, and brought up here on *Saturday* next.

Die Sabbati 3°. die Novembris 1722.

The Priſoner was this Day brought to the King's-Bench-Bar, by the Lieutenant of the Tower, in obedience to the Rule of Court, made the 31ſt of October.

Mr. *Att. Gen.* My Lord, I have demurred to the Priſoner's Plea in Abatement, and pray the Demurrer may be read.

Cl. of the Cr. reads the Demurrer.

Et Robertus Raymond Mil. Attorn. Dom. Regis Generalis qui pro eodem Dom. Rege in hac parte ſequitur habito audit. placiti pred. in caſſation. Indictament. præd. ſuperius placitat. pro eodem Dom. Rege dicit quod idem placit. materiaq; in eodem content. minus ſufficien. in lege exiſt. ad ipſum Chriſtopherum a reſpondend. ad Indictament. ill. excuſand. ad quod quidem placit. idem Attorn. General. neceſſe non habet nec per legem terre tenetur aliquo modo reſpondere. Et hoc idem Attorn. General. pro eodem Dom. Rege parat. eſt verificare prout Cur' &c. Unde pro inſufficient. placit. ill. idem Attorn. Dom. Regis General. pro eodem Dom. Rege petit judic. &. quod Indictament. predict. bon. & ſufficiens adjudicetur, &c.

Rob. Raymond.

Mr. *Att. Gen.* We pray they may joyn in Demurrer immediately.

Mr. *Hungerford.* My Lord, it is altogether a Surprize to us, and as the Clerk hath read it, it is impoſſible for us to take the ſubſtance of this Demurrer. We therefore hope we ſhall be allowed a few Days to conſider of this matter of joyning in Demurrer. We ſhall not ask many. The Precedents are ſo, the Priſoner was always indulged with ſome time in a Caſe of this nature. Before the Act of Parliament for regulating of Tryals, where matters of Law were ſtarted, or any ſpecial Pleading did ariſe, the Priſoner was indulged with a great number of Council. *Fitzharris* had Five, a greater number than I ever knew engaged on one ſide in Deliberations of this kind, unleſs it were that number of learned Council which met to adviſe upon and adjuſt this Demurrer. But I think in the ordinary courſe of the Court we are proper to deſire two or three days. Two or three days is but a little time, eſpecially where the Life of a Man is concerned. Mr. Attorney took from *Wedneſday* to *Saturday*, to conſider of our Plea, we hope at leaſt the ſame time ſhall be allowed to us to conſider of this Demurrer. I have in my hand the Arraignment of and Proceedings againſt *Fitzharris*, he was indulged ſeveral Days.

Mr. *Ketelbey.* My Lord, I have brought the Book along with me relating to *Fitzharris*: as to the Matter of having time to join in Demurrer, whether we are not entituled to it by the Rules of the Court, I muſt ſubmit to your Lordſhip. It is a Caſe of great Conſequence; and, as I take it, the conſtant Practice is, that a four Days Rule is always given to join in Demurrer. This is always done, as I am informed, on the Crown ſide as well as the Plea ſide. The Tenor of the Rule is either to join in Demurrer within four Days, or to wave the Plea; but Mr. Attorney requires us to do it immediately. In *Fitzharris's* Caſe the Attorney General Demurred in Court, and the Council on the other ſide refuſed to join in Demurrer immediately, and they had from *Wedneſday* to *Saturday*. We hope therefore there ſhall be a four Days Rule for us to join in Demurrer as is in all other Caſes. If we are not regular in inſiſting upon four Days, we hope at leaſt your Lordſhip will indulge us with ſome time; or if we do immediately join in Demurrer, that we ſhall have ſome time to prepare ourſelves to argue it.

Ld. Ch. Juſ. How ſay you, Mr. *Harcourt*? How is the Courſe of the Court?

Mr. *Harcourt.* My Lord, In Criminal Proſecutions for Miſdemeanours, two four Day Rules to plead are given, and a peremptory Rule moved for; and then if there be a Demurrer, one four Days Rule to join in Demurrer is given, and a peremptory Rule moved for: But in Capital Caſes there is no Rule given, either to plead or join in Demurrer; all Proceedings in ſuch Caſes being at Bar, the Priſoner is oblig'd on all occaſions to anſwer immediately, nor can there be any inſtance ſhewn to the contrary.

Ld. Ch. Juſ. The Courſe of the Court is againſt you.

Mr. *Hungerford.* As to the Courſe of the Court, I know no better Deſcription of it, than that it is the uninterrupted uſage of the Court warranted by Reaſon, or at leaſt not contradicted by it. The Officer tells you that in Criminal Caſes which are not Capital there are Rules for four Days, and four Days to plead, and likewiſe a four Days Rule to join in Demurrer; and ſurely if

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in a Criminal Caſe, which is not Capital, a Man is indulged four Days; ſurely in a Criminal Caſe as this is, which is Capital and doth touch a Man's Life, his Poſterity, and his Eſtate, by parity of Reaſon, the Indulgence ought to be more than four Days. I beg leave to obſerve one thing in the Caſe of *Fitzharris*, now in my hand. My Lord Chief Juſtice there asks the Priſoner; Will you plead over? If you will, you may have any time in reaſon. Now, my Lord, we have pleaded over, we have pleaded Not guilty as to the Offence; ſo that for that reaſon we might have till *Hillary Term* next, becauſe we have forwarded them in their Journey already by pleading Not guilty as to the High Treaſon: And we hope therefore the Gentlemen of the other ſide won't contend with us for two or three Days in a Caſe of this nature.

Mr. *Ketelbey*. My Lord, I only beg leave to mention this ſingle word, that we don't inſiſt upon this for Delay, or to put off the Tryal; we have pleaded over to the Treaſon, and in caſe we ſhould join in Demurrer, whatever time is taken up in arguing it, cannot obſtruct the Proceedings in order to the Trial: Nay the Trial may be had before the Matters of the Demurrer be determined.

L.d. Ch. Jus. In caſe you ſhould join in the Demurrer? What can you do elſe?

Mr. *Ketelbey*. I believe we ſhall. If we had not thought our Plea would have ſtood a Demurrer, we had not made uſe of it.

Mr. *Serj. Pengelly*. My Lord, What he prays is againſt the Rules of the Court; in all Capital Caſes there are no Rules given to plead or join in Demurrer, but the Proceedings are all *Inſtanter*, the Priſoner being preſent in perſon, and therefore, my Lord, there is nothing in what they ask. When they put in a Plea in Abatement here at the Bar, which cannot be expected or thought of, it is reaſonable that there ſhould be ſome time to conſider of that, to ſee the nature of it, and conſider what to anſwer to it. We have demurr'd to their Plea; no doubt they had conſider'd of their Plea whether it was a good Plea in Law or not; if it be not good, can they amend their Plea in Abatement? It was never allowed; if they can make no alteration in that, what can they do? They can do nothing elſe but join in Demurrer; it is all they can do; and when they have joined in Demurrer, we ſhall ſee if they have any reaſon for further time. But as to what they ſay, that as to the ſufficiency of the Plea, it may be argued another time; and as they have pleaded over to the Treaſon, there needs be no Delay as to the Tryal; I would be glad to ſee whether by this they do not deprive the Crown of the Election to proceed in ſuch manner as ſhall be thought moſt advantageous for the carrying on the Proſecution: But is it adviſeable to leave a Plea in Abatement to the whole undetermined, and to try the Iſſue firſt? I believe they can ſhew no ſuch Inſtance, and therefore in all Capital Caſes, as well as in Criminal, the Plea in Abatement goes to the whole, to deſtroy the whole Indictment, and indeed ought to be determined before the Court goes on with the Tryal. My Lord, we are ſurprized at what they mean by this, when they can do nothing elſe but join in Demurrer, and therefore we hope they ſhall join immediately.

Mr. *Att. Gen.* My Lord, what we inſiſt upon is not a new thing; the conſtant Practice in caſes of this Nature has been, that if a Demurrer is put in to the Priſoner's Plea, he muſt join in Demurrer *inſtanter*. I believe the Gentlemen of the other ſide can't ſhew one Inſtance to the contrary. The Priſoner can do no nothing but join in Demurrer. As to what has been ſaid about our having time from *Wedneſday* to *Saturday*; the reaſon was becauſe *Thurſday* and *Friday* were no *Weſtminſter-Hall* Days, for which reaſon we could not have the Priſoner brought up before this Day. The putting in a Demurrer to this Plea can be no ſurprize to the Council for the Priſoner; for yeſterday we ſent Copies of our Demurrer to them. Mr. *Pember*, the Priſoner's Clerk in Court, had a Copy of it by Two of the Clock in the afternoon; and the Priſoner himſelf had one about Four a Clock. As to the Caſe of *Fitzharris* which has been cited, it was a Plea look'd upon to contain Things of very great difficulty; the time asked for there was not to join in Demurrer, but the time apply'd for was for ſettling the Plea; but as ſoon as Mr. *Fitzharris* had pleaded, and the Attorney General had demurred to it, the Court order'd the Priſoner to join in Demurrer *inſtanter*. As to what has been ſaid, that we may proceed to Tryal on the Plea of not Guilty before the Demurrer to the Plea in Abatement is determined; that is by no means adviſable; the Conſequence of that may be very

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miſchievous; for if the Court ſhould be of Opinion that the Plea in Abatement is good, after we have diſcloſed the whole Evidence againſt the Priſoner upon the Tryal, tho' we obtained a Verdict for his Majeſty, the whole muſt be ſet aſide; and therefore we hope your Lordſhip will not break into the common method of Proceedings, but make the ſame Rule for the Priſoner as always has been made in caſes of the like nature, which is, that he ſhall join in Demurrer immediately.

Mr. *Soll. Gen.* My Lord, I agree with the Council for the Priſoner, that we are in a Caſe of Life, and that is a reaſon why their Client ſhould have all the Indulgence the Law will allow him. But I beg leave to obſerve that we are not now on a Queſtion that directly concerns the Merits of the Caſe, nor whether a Priſoner who is to anſwer for his Life at this Bar, ſhould have time to ſend for his Witneſſes, or prepare for his Defence. That indeed might be of a different Conſideration. But we are now barely upon a frivolous dilatory Plea, as frivolous a Plea as ever was offer'd in any Caſe whatſoever; and the Queſtion is, whether they, who have prepar'd and put in this dilatory Plea, ſhall have time given them to conſider whether they will join in Demurrer upon it or not. As to the Caſe of *Fitzharris*, whatever they have infer'd from it, I think it rather turns againſt them. Was that a Plea of *Miſnomer?* A Letter pretended to be miſtaken in a Name; which I beg leave to ſay, when conſider'd, will appear to have been always ſo written in legal Proceedings? No, it was a Plea of the Pendency of an Impeachment for the ſame Offence, ſent up by the *Houſe of Commons* to the *Houſe of Lords*, and by conſequence in that Caſe, the Prerogative of the Crown, the Juriſdiction of the Lords, and the Privileges of the Commons, were highly concern'd. This was a Queſtion of as great weight, and perhaps of as great Difficulty as could come before the Court, and therefore the Priſoner had time given him to plead that matter; but when the Attorney General demurred to it, the Priſoner join'd in Demurrer inſtantly: and as Mr. *Harcourt* acquaints your Lordſhip, the Practice is, that there is no ſuch Rule for proceeding upon Demurrers in Capital Proſecutions as in other Caſes; and this appears by their never being ſet down in the Paper to be argued, as Demurrers always are in other Cauſes. So it was in the Caſe of *Fitzharris*. That was argued by four or five Council of a Side, without being ſet down in the Paper. In the Caſe of the Priſoner, which is your preſent Conſideration, more hath been done for him, than was done for *Fitzharris*. Here is not only a Demurrer given in by Mr. Attorney at the Bar, but the Priſoner's Attorney had a Copy of the Demurrer at Noon the day before, and conſequently they could not want notice that we intended to Demurr, nor be under any ſurprize from it. What then would they take time for? Can they do any thing but join in Demurrer? Can they amend in Capital Caſes? Or could they amend a Plea in Abatement in any Caſe? They know very well that they cannot. Can they withdraw their Plea? I believe they cannot do that neither without the conſent of Mr. Attorney General. If this be ſo, would they take time to conſider whether they ſhall join in Demurrer, when they have no choice, when it is impoſſible for them to do any thing elſe. But, my Lord, the Method of proceeding we are now inſiſting upon, hath been always taken in Capital Caſes. I agree when the Queſtion has concern'd the Merits of the Priſoner's Caſe, or when he has been to prepare and conſider of ſome matter which has been, ſtrictly ſpeaking, his Defence, time hath been allow'd, but not in other Inſtances. Where the Exception taken hath been to the Juriſdiction of the Court, and time has been deſired to make it good, it hath been deny'd; as in the caſe of my Lord *Preſton*, who was try'd before my Lord Chief Juſtice *Holt*, and other Judges at the *Old-Baily*. My Lord *Preſton* inſiſted, that he was a Peer created by Letters Patent of King *James* the Second, and conſequently that the Court at the *Old-Baily* had no Juriſdiction to try him, and he pray'd time to produce his Letters Patent in order to prepare and make good his Plea; but the Court refus'd to give him time for that purpoſe. And I believe it will be found, that in all Inſtances where Pleas have appear'd on the firſt view of them to be merely dilatory,

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and offer'd for no other Reaſon but to delay that Juſtice which ought to be done to the Crown, the Judges have refuſed to aſſiſt the Priſoner with any Time beyond the ordinary Rules of the Court.

Mr. *Reeve.* I ſhall not take up your Lordſhip's Time much in this Caſe. My Lord, we think, in Civil Actions the Court on Motion would ſet this Plea aſide, but in a Caſe of Life it is receiv'd, and Mr. *Attorney* has thought fit to demurr to it. Is any Advantage loſt, for the Priſoner to join in Demurrer inſtantly? I apprehend what they move for is to have time to join in Demurrer. Are they not as ready to do that now, as if they had a Week or ten Days time given them? Is there any thing elſe can be done? and is there any Occaſion for Time to do that which muſt be done? and cannot they as well join in Demurrer now, as if they had more Time to do it? Certainly they may, my Lord, ſince by the Rules of the Court (as Mr. *Harcourt* informs your Lordſhip) there is no Rule given, but they are to join inſtantly. There is no Reaſon to allow them Time, ſince they can loſe no Benefit or Advantage by joining inſtantly. So then, as we apprehend, we are in the Courſe of the Court, and there is no Reaſon why the Courſe of the Court ſhould be alter'd in this Caſe, we therefore hope that they ſhall join in Demurrer immediately.

Mr. *Weſt.* My Lord, I think there is nothing in the Exception of his Counſel not being ready to argue his Plea: No doubt they conſider'd of it before they brought it in; and when they had produced their Plea, Mr. *Attorney* demurr'd to it. I can't ſee why they ſhould inſiſt ſo much for Time, when they can do nothing elſe but join in Demurrer; therefore we hope that they ſhall inſtantly join in Demurrer.

Mr. *Hungerford.* My Lord, I beg leave to ſet a Matter of Fact right, that is as to the Caſe of *Fitz-Harris*, which was mention'd as an Authority againſt us by Mr. *Attorney*, but in truth is not ſo; for though *Fitz-Harris* his Counſel did join in Demurrer immediately, (or *inſtanter*, as 'tis call'd) yet that was not by the Coercion of the Court, but they voluntarily offer'd to join in Demurrer, upon an Opinion (as I preſume) of their own great Abilities and Self-ſufficiency in the Matter. But we have not that Opinion of our *extempore* Performances, but deſire time to conſider of this Matter. As to my Lord *Preſton*'s Caſe, quoted by Mr. *Sollicitor*, it is true the Court did not give him leave to ſend for his Letters-Patent, becauſe, as my Lord himſelf had opened them, and the Truth was, his Letters-Patent were dated at St. *Germains*, and granted by King *James* there, after his Abdication; and it would have been the higheſt Indignity both to the Court and the Government, to have ſuch Letters-Patent pleaded, or inſiſted on; and I believe no Gentleman at the Bar, then, or now, would have ſigned ſuch a Plea, which if allow'd would have implyed that the Government was not well ſettled in their Majeſties King *William* and Queen *Mary*, and that King *James* (tho' at St. *Germains*) had a Right to Create Peers, and conſequently was really King. But if my Lord *Preſton* had had Letters-Patent regularly granted by King *James* or King *William*, in his Chambers, can any one ſay they would not have given him leave to ſend for them? moſt certainly they would; but it appeared they were dated at St. *Germains*, and granted to him there; that, with humble Submiſſion, was the Reaſon why they would not indulge him with Time, and that Precedent therefore, I hope, is of no Weight in this Caſe. It is ſaid, we are tyed down by our Plea; we knew our own Strength when we pleaded it, and therefore ought to be ready to argue it: But if my Memory doth not fail me, (and therefore I ſpeak it with ſome Doubt) I believe there are Inſtances where even in a Criminal Caſe a Plea hath been amended. I believe it was ſo done in the Caſe of my Lord *Banbury*, which was a Plea to the Juriſdiction of the Court. My Lord, we ſhall deſire but a very little Time, which I hope will be granted us.

Mr. *Ketelbey.* My Lord, as to *Fitz-Harris*'s Caſe, the Plea was amended there the firſt time it was brought in by Mr. *Fitz-Harris* himſelf to the Bar; the Plea was brought in and read in Court; after the Plea was read the Court aſſign'd him Counſel, and gave him from *Saturday* to *Wedneſday* to put the Plea in a regular and legal Method, and it was altered and brought in again on *Wedneſday*. As to what the *Attorney* ſays, that the Court compell'd him to join in Demurrer inſtantly, the Words of the Book which I have in my Hand are; "We that "are aſſigned Counſel for the Gentleman at the Bar, we don't deſign to de-

" lay the Proceedings, but do declare that we will join in Demurrer with them " immediately." Theſe are the Words of the Book; ſo that it was the voluntary Act of the Counſel, and they were not at all compelled to it by the Court. As to what Mr. *Harcourt* obſerves to be the Courſe of the Court, and that we can't ſhew one Inſtance to the contrary; I don't know whether they can ſhew one Inſtance for it, except in the Caſe of *Fitz-Harris*; if they can ſhew in any capital Caſe one Inſtance, we ſhall ſubmit.

It is called a Frivolous Plea, the Variation of one Letter, and never writ otherwiſe. Whether it is frivolous or not will appear when it comes before your Lordſhip in Judgment: As to its never being wrote otherwiſe than with an *E*, I don't believe they can find it in any Book either great or ſmall ſpelt ſo, unleſs they have met with it in *Inſtructor Clericalis:* all the Books of Authority are otherwiſe; I believe that one carries with it but little Weight. As to my Lord *Preſton*'s Caſe, which Mr. *Sollicitor* is pleaſed to cite againſt us, that the Court would not allow him time to make out his Plea, Mr. *Hungerford* hath given an ample Anſwer to that, and a true one as to the Circumſtances; but if the Caſe of that Lord had been ſuch as the Gentlemen of the other ſide are pleaſed now to ſtate it, What doth it prove but the contrary to what the Court did in *Fitz-Harris*'s Caſe, and therefore the moſt that can be made of it is one Authority againſt another; and where Authorities are equal, we hope the Indulgence of the Court will interpoſe in favour of Life, and grant us ſuch reaſonable Time as the nature of the thing requires, and not compel us inſtantly to join in Demurrer.

Mr. *Att. Gen.* My Lord, I beg leave to ſtate one Fact right, and that is as to *Fitz-Harris*'s Caſe: They ſay the Plea was put in, and afterwards amended; that is a Miſtake; the Fact was that his Wife brought a Plea into Court, and offer'd it to the Court, and preſs'd it might be received; but Mr. *Fitz-Harris* was adviſ'd to conſider what he did, and thereupon he took it back, and afterwards brought a Plea in, which was receiv'd, and after that it was never alter'd.

Ld. Ch. Juſt. I dare ſay it is the firſt time that ever in a Capital Caſe, when a Plea in Abatement was pleaded, and the *Attorney-General* thought fit to demurr to it, that the Party deſired Time to join in Demurrer. You are not entitled to any Time by the Courſe of the Court, you can't ſhew any Inſtance to prove it: The Queſtion then is, Whether you have given any Reaſon for us to indulge you with Time, that never was granted in a Caſe of this Nature.

You have pleaded in Abatement; you were enabled ſo to do by having a Copy of the Indictment; you brought your Plea ready engroſs'd, and put it in. Mr. *Attorney* not being aware of any ſuch Plea, it could not be expected he ſhould be ready with a Demurrer in his Hand to this Plea, and therefore he deſired Time to conſider of it. The next Day it could not be, nor the next after that, they being Holy-Days; but then the very firſt time that he had an Opportunity to come, he comes and demurrs to your Plea: but you deſire Time, and why ſhould you not have Time when they had Time, to conſider whether you ſhall join in Demurrer.

Do you want Time to conſider whether you ſhall join in Demurrer, after you have had Time to plead and to draw up your Plea, and have brought it in to Court? Why ſhould you have Time? Can you do any thing elſe but join in Demurrer? You can do nothing elſe: and unleſs you can ſhew any Reaſon why the Court ſhould indulge you, if you don't think fit to join we muſt give Judgment againſt your Plea. You tell us of the Caſe of *Fitz-Harris*; that is as widely different from this Caſe as any thing can be. It was a Caſe of great Difficulty, that required great Conſideration, when a Party comes and informs this Court, and inſiſts he is not within the Juriſdiction of the Court. When a Matter is urged to us as a Queſtion of Law, if we were not bound as we are by Act of Parliament, we would certainly aſſign Counſel to the Priſoner to plead a Matter of that Nature; and when the Court in *Fitz-Harris*'s Caſe had aſſigned him Counſel, were thoſe Counſel to argue immediately? It was nothing but Juſtice to give them Time after they were aſſigned, to argue a Plea of that Nature; a Plea in which the Prerogative of the Crown, the Juriſdiction of the Houſe of Lords, and the Rights of the Commons was concerned. The Court wou'd not run haſtily into the determining of that Mat-

ter,

ter, without hearing it debated by Counſel, and therefore they gave the Counſel Time, upon which they might be enabled to give a juſt Judgment. Is there are thing in this Caſe like it? You have pleaded in Abatement. Mr. *Attorney* hath demurr'd to your Plea, and you deſire we would give you Time to do that which you muſt do, or do nothing at all. Is there any Pretence? Could you in this Caſe come with any Colour or Pretence of Juſtice, and deſire of us to amend your Plea? Is there any thing elſe you can do? This is nothing but a pure dilatory Plea, and he puts in this Plea. The Queſtion is whether it ſhould be an *O* inſtead of an *E*. You are not entitled to any thing of this Nature; it is nothing but an affected Delay; and it cannot be thought to be for any other Reaſon; therefore you muſt join in Demurrer immediately: if not, we muſt give Judgment againſt your Plea.

Mr. *Jus. Powys.* My Lord Chief Juſtice hath given ſo full and clear an Account of the Matter, that I am ſatisfied, and do think you muſt inſtantly join in Demurrer.

Mr. *Jus. Eyre.* I am of the ſame Opinion. In Capital Caſes the Party is obliged to plead *inſtanter*; for the Proceedings are carried on at the Bar without giving Rules: This is the conſtant Courſe; and the Courſe and Practice muſt be the ſame, in regard to the Time for joining in Demurrer: but the Court is ſtill at liberty to allow further Time, if it be neceſſary to the Juſtice of the Cauſe; and if it could be of any Uſe to the Priſoner in the next Step he is to make, I ſhould not be againſt it: But as the Caſe now ſtands, that he has nothing to deliberate upon, that he can lay no new Matter before the Court, but is oblig'd to abide by his Plea, and can neither withdraw nor amend it without Conſent, but muſt neceſſarily join in Demurrer, and has no other Choice; I think it would be a manifeſt Delay of Juſtice to allow further Time; and am therefore of Opinion, that he ought to join in Demurrer immediately.

Mr. *Jus. Forteſcue Aland.* I am of the ſame Opinion. The Priſoner can have no Benefit by our giving him Time to join in Demurrer, except it be to put off the Tryal: The Court makes a Difference in all Caſes, both Civil and Criminal, between dilatory Pleas and other Pleas. An affected Delay is never to be ſuffer'd, more eſpecially in a Capital Caſe; and here it is plain, that when the Counſel for the Priſoner brought in this Plea that they had conſider'd it before, and thought it of Service to the Priſoner, and nothing more remains now than to join in Demurrer. The *Attorney-General*, by his Demurrer, ſays it is not a good Plea; and the Priſoner has nothing further to ſay, but that it is a good Plea; and if he does not think fit to ſay that we muſt give Judgment againſt him. I remember in the Caſe of the King and *Gordon*, when the Priſoner came to the Bar, having lapſed the Time of taking Exceptions, in order to quaſh the Indictment, he mov'd the Court for Time to plead in Abatement; but the Court refuſed it, alledging they would give no Opportunity for a dilatory Plea; and I think there is the ſame Reaſon, if not ſtronger, in this Caſe, where the Priſoner has nothing to do but to join in Demurrer; that is to ſay, to ſubmit to the Judgment of the Court, whether this be a good Plea or not; and that may be done immediately, as well as if the Priſoner had never ſo much Time for it.

Priſoner. My Lord, I know not how conſiſtent this Rule of Court may be, that in a Capital Caſe of the higheſt Nature whatſoever that I ſhould not be allowed Time to join in Demurrer, when in Criminal Caſes of an inferior Nature there is a Four-days Rule given. The Counſel for the King were indulged from *Wedneſday* to *Saturday*: I hope I ſhall have the ſame Indulgence on my Part, to conſider whether I ſhall join in Demurrer or not.

I am ſo far from deſiring to give any Delay, tho' I am ſatisfied how maliciouſly this Proſecution is carried on, and am pretty well acquainted with every Step taken in the Management in *Eſſex*; and I am willing, rather than to continue to be thus hunted up and down the World, to retract my Plea, and plead generally Not guilty.

Ld. Ch. Juſt. If Mr. *Attorney* conſents to it.

Priſoner. I am obliged to my Counſel for the Care they have taken of me, and have here in my Hand a Joinder in Demurrer engroſſed and ſigned by them, and ready to deliver in; but I won't offer it, becauſe I won't give any Delay to the Juſtice of the Court.

Mr. *Hunger-*

Mr. *Hungerford.* He ſtands upon his Plea of Not Guilty to the Indictment.

Ld. Ch. Juſt. You have pleaded Not Guilty; you have likewiſe pleaded a *Miſnomer*, which hath been demurred to: your Plea therefore now muſt be as pleaded in chief, and as put in at the time when it was firſt pleaded; you don't deſire you may plead the ſame Matter again this Day?

Mr. *Hungerford* and Mr. *Ketelbey.* We do not.

Mr. *Att. Gen.* If I underſtand the Priſoner right, he pretends to be deſirous that his Tryal may come on, and therefore he is willing to withdraw his Plea in Abatement, and abide by his Plea of Not Guilty: 'Tis what we deſire likewiſe; and I wiſh we could go on in this Caſe as we ought, in a decent Manner, without having groundleſs Reflections continually made. Something hath been ſaid of the Maliciouſneſs of this Proſecution, and indirect Management, by ſome Body, 'tis not ſaid whom, in the County of *Eſſex.* My Lord, I defy any Man to ſhew any ſingle Step taken in carrying on this Cauſe, but what is perfectly right and juſtifiable.

I wiſh, out of Charity, that the Priſoner would conſider the Circumſtances he is in; if he did, he would not ſay this Proſecution is carried on by Malice; for if I know any thing of the Evidence, I have no Reaſon to doubt but at the proper time there will enough appear againſt him to convict him.

Mr. *Hungerford.* I dare ſay the Priſoner did not entertain a Thought of reflecting upon any of the Profeſſion concern'd in carrying on this Proſecution. But pray, my Lord, give me leave humbly to repreſent, that the Man's Caſe is hard; he tells you he is in Chains, and I ſee he is in great Pain even now; and I earneſtly wiſh that he were eas'd in that Matter. I do not pronounce theſe Words out of any Affectation of Popularity, or to captivate the Auditory, as was inſinuated in the Beginning of this Proceeding, but in mere Compaſſion I have to the Priſoner, and to all Mankind, which Temper I have ſhewn thro' all the Stages of my Life.

Ld. Ch. Juſt. You have been told by the Court already our Opinion, that it is not in our Power. We were told, and I perceive it is not denied, that he did once eſcape after he was taken; and if ſo for the better ſecuring him he was put in Chains, Do you ask us to take thoſe Chains off? Can we do it? Or ſhould we do it? If he ſhould eſcape out of the *Tower*, ſhall not we be guilty of that Eſcape? The Circumſtances of the Caſe ought and muſt govern. He ſays he is Innocent, and I hope he is; and if he be, he takes the propereſt Meaſures to knock his Chains off, let him make his Innocence appear; and it will appear whether he is Innocent or not, when we come to try the Cauſe.

Priſoner. If I thought it was contrary to Law to take off theſe Chains I ſhou'd not mention it. I deſire to obſerve, that theſe Chains were not put on till after a fourth or fifth Examination.

As to the Eſcape out of the Meſſenger's Hands, he never ſhew'd me his Warrant, and I did not know any Authority he had to keep me. As to eſcaping out of the *Tower*, it is not in my Power, neither is it in my Inclination. I deſire therefore to be eaſed of theſe Chains.

And another thing I deſire is, that I might have an Opportunity to ſee my Relations, my Wife, that ſhe might come to me.

Mr. *Ketelbey.* That was granted in *Fitz-Harris*'s Caſe.

Ld. Ch. Juſt. As to the taking off the Chains you have had the Opinion of the Court, we cannot, we ought not to do it, it is a Breach of our Duty; as to the other Matter, he deſires to ſee his Relations, what do you ſay to it?

Mr. *Att. Gen.* My Lord, as to *Fitz-Harris*'s Caſe, there was a great Deal of Caution us'd as to the Perſons permitted to ſee the Priſoner; before they went in they were to be ſearched, and they were to be with him only in the Preſence of the Keeper.

Mr. *Ketelbey.* It is mentioned there, that the Wife had misbehav'd herſelf, and that a particular Caution ought to be taken with reſpect to her; but the Acceſs of a Wife to her Husband under ſuch unfortunate Circumſtances was never deny'd, I believe, in any Caſe whatſoever.

Ld. Ch. Juſt. Upon a proper Application to the Court, the Court hath ſometimes ordered that Perſons named in their Rule may have Acceſs to the Priſoner in the Preſence of the Jaylor, and not otherwiſe, and that they ſhould be ſearch'd

ſearch'd before they come in. If you think fit to deſire it on thoſe Terms, the Court will conſider of it.

Priſoner. My Lord, I muſt deſire upon thoſe Terms as the Court thinks fit, and that my Siſter may have Liberty to come with my Wife.

Ld. Ch. Juſt. Your Wife and Siſter: It may be reaſonable for them to have Acceſs to you, but they are not to be with you but in the Preſence of the Jaylor.

Mr. *Serj. Pengelly.* My Lord, I beg leave to obſerve, whether it is uſual for the Court to make ſuch Rule: On the Tryal of Sir *John Friend*, there it was only intimated by my *Lord Chief Juſtice Holt*, but the Court did not order it by making any Rule; they know they may apply properly, and there may be Directions given to the Lieutenant of the *Tower*: as to the Counſel, that is allow'd in the Act of Parliament; and as the Court hath a Power to aſſign Counſel, it is proper for the Court to give Directions for them to be admitted at all Seaſons, and at all Times.

Ld. Ch. Juſt. Why the Wife and the Siſter?

Priſoner. Yes, my Lord, my Wife and Siſter. I don't put in a Number of Relations.

Ld. Ch. Juſt. I do think, Brother *Pengelly*, that the Court are truſted in a Matter of this Nature, and may regularly give Directions with what proper Cautions they think fit. Why, he ſays, he is deny'd the Comfort of his Wife; he deſires that his Wife and Siſter may be admitted to come to him. You ſay it hath been ſometimes intimated, but not ordered; if it was intimated by us, and not comply'd with, I believe I ſhould make no Difficulty to order it, provided it be with a reaſonable Caution, and no Inconvenience in it.

Whether is it the Wife or Siſter you deſire? I think one is enough, and ſhe muſt ſubmit to be ſearch'd.

Mr. Serj. Pengelly. Before your Lordſhip makes any Rule in this Caſe for the Priſoner, I beg that he may be oblig'd to amend his Plea of Not Guilty, and that he may plead by the Name of *Chriſtopherus*, by which he is indicted. You have been brought to the Bar, and have put in a Plea by the Name of *Chriſtophorus*; if you are in Earneſt that you deſire to wave your Plea in Abatement and have it withdrawn, you muſt change the Name wrote in the Commencement of the Plea, and make it as it is in the Indictment, that there may be no Embarraſſment in the Proceedings in the End.

Ld. Ch. Juſt. You conſent to have it amended?

Mr. *Hungerford.* The Priſoner at the Bar hath conſented to withdraw his Plea in Abatement; and though the Plea were ſuch that he might have prevail'd upon it, yet after his pleading Not Guilty in general, there is not in the Courſe of this Proceeding any Period of Time wherein he can avail himſelf with the Matter of this Plea in Abatement; and therefore we ſubmit it to the Court, and to the King's Counſel themſelves, to put this Matter into ſuch a Form, that the Priſoner may come to a fair Tryal upon the Iſſue of Guilty or Not Guilty.

Mr. *Ketelbey.* I believe the Priſoner is willing to come into the Method offer'd; and though this Plea hath been called a frivolous Plea, yet the Precaution taken by the Gentlemen of the other Side ſeems to give a Sanction to it, and makes it not ſo frivolous as hath been repreſented.

Ld. Ch. Juſt. What do you mean, Mr. *Ketelbey?* Here is nothing ask'd of you: you do deſire to wave and withdraw your Plea; we deſire to know, if you do, whether you will plead by the Name as it is in the Indictment.

Mr. *Ketelbey.* My Lord, we do.

Mr. *Att. Gen.* We deſire the Plea of Not Guilty may be amended, upon the Conſent of the Priſoner.

Mr. *Hungerford.* We offer now, let the Piece of Parchment be entirely aboliſhed, take it entirely out of the way, and we plead Not Guilty.

Ld. Ch. Juſt. Your Plea muſt be now *& prædict' Chriſtopherus ductus hic ad barram*, &c.

Mr. *Ketelbey.* We ſubmit it.

Priſoner. I deſire to withdraw and retract the other Plea, and do plead Not Guilty.

Ld. Ch. Juſt. No, it muſt be mended; you will hear how it is when it is ſtruck out and amended, and then you will tell us whether it is mended according to your Intent or no.

Cl. of the Cr. *Et prædictus Chriſtopherus Layer allocutus exiſtens per Cur' hic de alt' proditione' prædicta per Indictament' prædict' ei ſuperius impoſit' qualit' ſe velit inde atquietari, idem Chriſtopherus Layer dicit quod ipſe in nullo eſt inde culpabilis & inde de bono & malo ponit ſe ſuper Patriam.*

Ld. Ch. Juſt. Is this according to your Intention?

Priſoner. Yes.

Mr. *Serj. Pengelly.* My Lord, I believe it is uſual in theſe Caſes for the Court to appoint a Time for the Tryal; the laſt Return but one in this Term is the 19th of *November*, ſo if you pleaſe it may be the *quarto die poſt*, which I think is *Wedneſday*, if that be ſuitable and convenient to the Court.

Ld. Ch. Juſt. What ſay you to it?

Priſoner. I deſire your Lordſhip would give me a longer Day to prepare for my Tryal. I have a great Number of Witneſſes, twenty or more, moſt of them People of the firſt Quality. I hope I ſhall have the common Proceſſes of the Court to bring them here; and, my Lord, another thing I deſire is, that I may have a *Habeas Corpus ad teſtificand'*, to bring my Lord *North* and *Grey* and my Lord *Orrery* at my Tryal. That, my Lord, you would pleaſe to give me as long a Day as you can to prepare for my Tryal; if your Lordſhip pleaſe it may be *Monday* the 26th, and then your Lordſhip will have a Day of Reſt between.

Ld. Ch. Juſt. That will be out of the Return.

Mr. *Hungerford.* They muſt appear, and then may be adjourned.

Ld. Ch. Juſt. It cannot be adjourned over beyond the Return.

Mr. *Ketelbey.* My Lord, the Priſoner hath ſhewn that he hath in no Reſpect affected Delay.

Ld. Ch. Juſt. It cannot be.——God forbid that we ſhould deny the Priſoner to have a reaſonable time to prepare for his Defence; it is three Weeks from hence; you have been aware of it long before; you have known the Indictment was found; you have had a Copy of it; you have known your Charge; and is not all this Time enough? Conſider, the Term draws toward an End, and it interferes with the common Buſineſs of the Term if we carry it to a further Day: we do agree the *Venire* to be return'd *Octab. Martini*, and the Tryal then muſt be the *quarto die poſt*, which will be *Wedneſday* the 21ſt. And it is proper for us to give you an Intimation now, not to expect any further time, or the Jury to be adjourned; do but conſider what a Multitude muſt be brought up, 80 at leaſt: The Priſoner hath a Privilege to challenge 35 peremptorily, and after, for Cauſe, as many as he pleaſes; ſo that a great Number muſt be brought up; and for them to be forc'd to attend here the 21ſt, and ſtill the Tryal to be put off, it will be a great Inconvenience and a great Charge, therefore that muſt be the Day, we ſhall not conſider to put it off till any further Time.

Priſoner. I beg leave for one Word more; I have a Witneſs that is to come from *Edinburgh*, and I can hardly have him here by the 21ſt. If I could but be indulged a few Days longer——

Ld. Ch. Juſt. We cannot do it, without making an Error in the Proceedings.

Priſoner. Is there no other Return for a *Venire* to be Returnable?

Ld. Ch. Juſt. No, there is none but that, and the laſt Return of the Term; and it is impoſſible to try him that Day, without doing a manifeſt Wrong and Injuſtice to the People of *England*.

Priſoner. My Lord, where a Man's Life is at Stake, if I ſhould not be indulg'd over till the laſt Day of the Term, for want of a Witneſs I may be in danger of my Life: I hope therefore your Lordſhip will pleaſe to indulge me.

Ld. Ch. Juſt. You have had a great deal of Time already, Time ſufficient to bring your Witneſs from *Edinburgh*, or any other Place, and we cannot do it. To put you off to the laſt Day of the Term, is to do a manifeſt Wrong to the People of *England*.

Priſoner. The Reaſon why I mention it over and over again, is becauſe I would not give your Lordſhip the Trouble to be turned over to another Day, on troubling your Lordſhip with Affidavits.

Ld. Ch. Juſt. In what you lay before us as Matter proper for Conſideration, we ſhall do what is juſt. It is not proper for you to tell us what we have to do, and to make Bargains with us. That is the Day of Tryal; it muſt be on *Wedneſday* the 21ſt: Your Counſel will tell you it is impoſſible to comply with your Requeſt, without doing the manifeſteſt Injuſtice in the World. Or elſe, whether to try you upon the 21ſt, or in two, or three, or four Days after, I don't think the Conſequence worth diſputing, but we can't do it without doing Wrong and Injuſtice to the People of *England*.

Priſoner. I hope I ſhall be indulged two or three Days.

Ld. Ch. Juſt. We can ſay no more. The Time you have had for Preparation for your Tryal we think abundantly ſufficient to prepare your ſelf, therefore we are of Opinion that the Tryal go on at that Day; and we order it accordingly.

Mr. *Ketelbey.* Your Lordſhip will pleaſe to order a Rule for his Wife and Siſter to come to him.

Ld. Ch. Juſt. No, not for his Wife and Siſter.

Priſoner. My Lord, for a ſingle Woman to come thro' the Courts and the Guards, to be examined by her ſelf, it's not ſo proper, my Lord.

Ld. Ch. Juſt. You ſhall have a Rule from the Court for your Wife to come; as for your Siſter, we muſt leave that to the Direction from another Place. We muſt not be too forward in granting Women to come, we remember an Eſcape occaſion'd by a Woman coming thither.

Mr. *Att. Gen.* There muſt be a Rule to bring him up at the Day of his Tryal.

Mr. *Ketelbey.* My Lord, as to having his *Habeas Corpus ad Teſtificand'* for my Lord *North* and *Grey*, and my Lord *Orrery*.

Ld. Ch. Juſt. You muſt give Notice, and then move what you pleaſe.

Mr. *Hungerford.* By what was ſaid, I did underſtand, I muſt confeſs, that though the Rule was made for the Wife only, yet that it might be in the Power of the Gentleman Jaylor to permit her Siſter to come with her.

Ld. Ch. Juſt. We give no Direction concerning it. He will have a Rule from the Court that will be his Direction, unleſs he receives any additional Direction from another Place, but the Court names his Wife only.

Mr. *Ketelbey.* There was another thing mentioned, that he may have Copies of his Papers that were ſeized.

Ld. Ch. Juſt. Give Notice for what you think fit, and move it.

Die Mercurii 21° *die Novembris* 1722.

THIS Day *Chriſtopher Layer*, Eſq; was brought to the Bar, in Cuſtody of the Lieutenant of the *Tower*, in purſuance of the Rule of Court made for that Purpoſe, in order to his Tryal.

Cl. of the Cr. You *Chriſtopher Layer*, now Priſoner at the Bar, theſe Men which you ſhall hear called, and perſonally appear, are to paſs between our Soveraign Lord the King and you, upon Tryal of your Life and Death: If you will Challenge them, or any of them, your time is to Challenge them as they come to the Book to be Sworn, and before they be Sworn.

Heneage Norton, Eſq;

Mr. *Hungerford.* My Lord, we deſire that his Irons may be taken off.

Ld. Ch. Juſt. The Irons muſt be taken off; we will not ſtir till the Irons are taken off.

Priſoner. I hope, my Lord, that the Irons ſhall be now taken off.

Ld. Ch. Juſt. They ſhall be taken off.

Mr. *Hungerford.*

Mr. *Hungerford.* The poor Man hath been ſo oppreſs'd by theſe Chains, that he was not able to prepare his Brief. I had it not till late laſt Night; and it is ten Sheets of Paper.

Mr. *Att. Gen.* Whoſe Fault is that? You have had Time enough.

Mr. *Hungerford.* It is the Fault of the Irons, Mr. *Attorney*, the Brief was not brought to me till Eleven of the Clock laſt Night.

Ld. Ch. Juſt. It was an Omiſſion; they ſhould have been taken off before he came to the Bar.

Mr. *Att. Gen.* There was Direction given for their being taken off before; how they came not to be taken off, I can't tell.

Ld. Ch. Juſt. Are the Irons taken off?

Gent. Jayler. Yes.

Ld. Ch. Juſt. Go on.

Cl. of the Cr. Heneage Norton, Eſq;

Ld. Ch. Juſt. You muſt call over all the Jury.

Mr. *Hungerford.* I thought they would be all called over once, before any one is endeavoured to be ſworn.

Cl. of the Cr. They have been called over already.

Mr. *Hungerford.* When? Not ſince the Court ſate, I am ſure. I would know whether the Intention is, that all the Pannel be called over before any one of them is ſworn, or that the Pannel is to be called over but once, and the Jurymen ſworn as they then appear. What I have obſerv'd is, the Clerk calls over the whole Pannel firſt, to ſee how many appear; and then calls it over again, and ſwears them as they anſwer to their Names, if not challenged.

Ld. Ch. Juſt. What you obſerve is what hath been done at the *Old Bailey*; there they call them over firſt, and then they call them over again, and as they appear they are ſworn preſently. But by the Courſe of the Court here they are called over before the Court is ſitting, and they mark thoſe that appear. That is not ſufficient; but they are called over again in Court, and then their Appearance and Non-appearance being mark'd, they do call thoſe over again that did appear; and as one appears, if there is no Objection to him, he muſt be ſworn.

Mr. *Hungerford.* I have obſerved them to be called over when no Body is by, in Civil Caſes; but in ſuch a Caſe as this, a Caſe of High Treaſon, where peremptory Challenges are allow'd, it is ſome Guide to the Priſoner in making his Challenges, to know before-hand who do and who do not appear.

Mr. *Ketelbey.* My Lord, with Submiſſion, in all Criminal Caſes there is no other Method than calling over the Pannel according as it is tranſmitted into Court. 'Tis probable ſeveral of the Jurors who did not appear at their being called over before the ſitting of the Court, will now appear; and therefore what we pray is that the whole Pannel may be now called over in the Order as it ſtands, not only thoſe who anſwered to the firſt Call, but thoſe alſo who then made Default.

Mr. *Att. Gen.* I can't imagine what they mean.

Ld. Ch. Juſt. This Debate ariſes from not underſtanding one another: You have the Direction of the Court; the Pannel is to be called over, if any Man doth not appear his Default is mark'd and recorded. When any one doth appear, and he is not challenged, he is to be ſworn.

Mr. *Ketelbey.* I came thro' the Hall juſt now, and there is ſuch a Crowd that it is almoſt impoſſible for any one to hear when they are called.

Priſoner. My Lord, I hope they ſhall be once called over before they come to be ſworn; for as to their being called before, that was before I came; it will ſpend but a little time to read over 40 or 50 Names.

Ld. Ch. Juſt. Call them over. I would not deny any thing that is deſired in Reaſon by or on the Priſoner's Behalf: Conſider what you are doing; the Priſoner hath had a Copy of the Pannel, he hath examined it, and conſidered who are proper for him to challenge peremptorily, and he hath conſider'd who they are that he may challenge with Cauſe.

I can't imagine; it was never done in this World: We have ask'd our Officer: They ought to call over all the Pannel; but if they do not appear, their Default is mark'd; if they do appear, the Priſoner knows whether he likes them or not.

Therefore when they come to the Bar, if not challenged, they muſt be ſworn.

Conſider what this Demand is; we ſhall be an Hour calling them over the firſt time, that it may appear to the Priſoner whether they appear or not; then afterwards you are to call them over again, and to have them brought up again when they come to be ſworn. But if it ever hath been done, it is fit it ſhould be done now; but our Officer tells us it never was done, and why ſhould you inſiſt upon it now? you have had all the Indulgence the Law allows you.

Priſoner. I have not had a Copy of the Pannel above two Days before. Here hath been in this Cauſe all the vile Practices———

Ld. Ch. Juſt. You muſt keep within due and proper Bounds. You are come now to be tried for an Offence you are charged withal; but you are not to arraign and challenge every Body elſe; you have no Right to do it. If in proper time it appears you have been ill uſed, the Court will do you Juſtice, and puniſh thoſe that have been guilty of any Misbehaviour.

Mr. *Serj. Pengelly.* My Lord, if they have any Objection to the Jury, they are to challenge them peremptorily: When the Jury come to be ſworn, then is their time; they are not to entertain the Court with Speeches before.

Ld. Ch. Juſt. No, it is not proper.

Conſider how unreaſonable it is for the Priſoner to arraign ſome Body's Miſbehaviour without naming him. But in this Method he is inſinuating Objections, which we can't examine whether they are true or falſe, on purpoſe to captivate People; and it may be, miſlead them in the Tryal of the Cauſe.

Mr. *Ketelbey.* As I came in, I obſerved that all the Avenues to the Court are barricadoed up, and only a narrow Place left on the Stone-ſteps, and a Guard kept there to keep out whom they don't think fit to let in.

Mr. *Att. Gen.* I know nothing of it; and I dare ſay no Body will give any Countenance to the hindring either Jury-men or Witneſſes coming into Court, when their Attendance is required here.

Mr. *Ketelbey.* I had much ado to get in my ſelf.

Ld. Ch. Juſt. There ſhall be due Care taken, that any of the Jury that appear, we will order Way to be made for them.

Mr. *Hungerford.* My Lord, I will take up but very little of your Time in this matter; I find I was not underſtood before; that which I contend for is, that the Pannel be read through once in the Priſoner's Preſence, to ſee what Jury-men appear, before any Jury-man is ſworn. The Priſoner hath a Right to challenge 35 peremptorily, or without aſſigning any Cauſe at all. Now, my Lord, this is a Favour, an Indulgence granted to him by Law, and he is therefore entitled to it in Juſtice. It is of great Uſe to the Priſoner, in order to enjoy the true Benefit of this Indulgence that the Law gives him, that he knows who doth and who doth not appear, for this Reaſon perhaps, if he did know that ſuch an one appears he will take him, and if he know that ſuch an one appears he will challenge him. And if he know that ſuch an one, who perhaps ſtands low in the Pannel, and of whom he has a good Opinion for being an honeſt Man, will appear, he will challenge as many as he can of the preceding Perſons, in order to have him, that honeſt Man, of his Jury. And as to the Time the reading of the Pannel will take us, (tho' by the way it might have been over by this time) I am ſure your Lordſhip and the Court will not regard what Proportion of Time you ſpare us, to let the Priſoner enjoy the Benefit of the Law in this Caſe, and to have a full Enjoyment of the Indulgence of the Act of Parliament in its full Latitude, that he may know and judge (as far as the Law hath enabled him) who is to paſs upon him as to his Life and Death. I beg therefore, my Lord, that the whole Pannel may be called over once before the Priſoner is put to challenge.

Priſoner. My Lord, What we humbly move for is what is every Day done at the *Old Bailey*, that they may be once called over.

All I deſire is what is done there, and by the ſame Reaſon ought to be done here in the ſame Caſe where a Man's Life is concern'd. I humbly move it that they may be called over.

Ld. Ch. Juſt. We ſhall grudge no Time to do the King and you Juſtice. It is dangerous to make a Precedent, an Innovation: But if you deſire it, I don't find the King's Counſel object to it.

Call over the Pannel.

You don't expect all ſhould be brought into Court, but only to know if they do appear?

Mr. *Hungerford* and Mr. *Ketelbey*. No, no.

Ld. Ch. Juſt. The Priſoner hath a Sollicitor; let ſome Body go down upon the Steps, the Sollicitor be preſent, and then he will hear who do and who do not appear.

Mr. *Hungerford*. We humbly thank your Lordſhip; this is a real Indulgence, and we humbly thank your Lordſhip for it.

Cl. of the Cr. calls over the whole Pannel.

You the Priſoner at the Bar, theſe Men which, *&c.*

Mr. *Ketelbey*. If your Lordſhip pleaſes to ſtay till the Sollicitor comes in, becauſe he went out to obſerve who did appear, and who did not appear.

Cl. of the Cr. Heneage Norton. Have you ten Pounds a Year Freehold and Copyhold, in the County of *Eſſex?*

Norton. I have no Freehold, only Copyhold. [Then he was ſet aſide.]

John Wilks. [Ask'd the ſame Queſtion, as were all the others who appear'd, before they were either challenged or ſworn.]

Priſoner. I challenge him.

Mark Froſt.

Priſoner. I challenge him.

Thomas Clarke.

Priſoner. I don't challenge him.

Cryer. Thomas Clarke. Sworn.

Henry Longbotham.

Priſoner. I ſay, I think his Name is wrong ſpelt.

Mr. *Soll. Gen.* We are not now upon Exceptions for Miſpelling. If his Name is written as he is uſually called, it is right.

Priſoner. He ſays his Name is with an *o*, and it is written here with an *a*.

Ld. Ch. Juſt. Doth the Copy deliver'd to you agree with the Pannel; if it doth, as long as it hath the ſame Sound, it will do.

Priſoner. With humble Submiſſion, in the Caſe of *Francia* there it was allowed.

Mr. *Hungerford*. My Lord, it is not the ſame Sound *Longbothàm* and *Longbothòm*, and in *Francia*'s the Difference of a Letter was allow'd to be a good Exception.

Ld. Ch. Juſt. You are by Law to have a Copy of the Pannel deliver'd to you; if that Pannel varies from the other, it is a juſt Exception; but if you object againſt a Jury-man becauſe his Name is not right ſpelt, and that hath the ſame Pronunciation, and he may be called ſometimes one and ſometimes another, it is well enough.

Mr. *Ketelbey*. My Lord, as to this Objection, whether the *Longbotham* is right, or the *Longbathom*, whether it is with an *A* or an *O*.———

Cl. of the Cr. You miſtake, it is *Longbotham*, and not *Longbathom*.

Priſoner. The laſt ſhould be an *O* inſtead of an *A*, *Longbothom*.

Ld. Ch. Juſt. Therefore we will ask the Gentleman how his Name is uſually pronounced, whether it is not pronounced ſometimes *Longbothom* as well as *Longbotham*.

Mr. *Longbotham*. Yes, My Lord, it is.

Priſoner. He ſays he ſpells his Name with an *O*, and here it is with an *A*.

Longbotham. I always ſpell my Name with an *O*, but my Letters are generally directed to me with an *A*.

Mr. *Hungerford*. He hath a Copy of the Pannel deliver'd him by virtue of the Act of Parliament; if the Copy be not a true Copy, it is not right according to the Direction of the Act.

Ld. Ch. Juſt. Right.

Mr. *Hungerford*. Now the Pannel which the Priſoner hath is ſpelt with an *A*, and the Pannel of which this is a pretended Copy is, I take it, ſpelt with an *O*.

Cl. of the Cr. No, they are both ſpelt alike.

Ld. Ch. Juſt. You know it, Gentlemen, as well as can be. Don't let us ſpend Time where there is nothing in it; we will hear what is proper for our Conſideration.

Sup-

Suppoſe a Man is called and writ ſometimes *Longbothom*, and ſometimes *Longbotham*; and ſuppoſe he was called by either of theſe Names, may he not therefore be called by one as well as the other? Is that an Objection to ſay he writ with an O, but People write to him with an *A*? there is nothing at all in it.

Priſoner. Then I challenge him.
Cl. of the Cr. *Iſaac Buxton.*
Priſoner. I challenge him.
Cl. of the Cr. *Richard Scott.*
Priſoner. I challenge him.
Cl. of the Cr. *John Wormlayton.*
Priſoner. I challenge him.
Cl. of the Cr. *John Andrews.*
Priſoner. I don't challenge him.
Mr. *Att. Gen.* I challenge him for the King.
Cl. of the Cr. *Thomas Waterhouſe.*
Stephen Huff.
John Thorowgood.
Chriſtopher Bailey.
} Challeng'd by the Priſoner.
Iſaac Potter. ſworn.
Cl. of the Cr. *William Lord.*
Priſoner. I challenge him.
Cl. of the Cr. *Hezekiah Haynes.* ſworn.
Thomas Heckford, jun.
Priſoner. I challenge him.
Cl. of the Cr. *Richard Waglett.*
Priſoner. I don't challenge him.
Mr. *Att. Gen.* I challenge him for the King.

Mr. *Ketelbey.* Mr. *Attorney* is pleaſed to challenge him for the King; we humbly inſiſt on it that Mr. *Attorney* is to ſhew his Cauſe of Challenge immediately. I own it has been otherwiſe in one or two late Inſtances; but I ſubmit it, if that Practice ſhould prevail, whether the Act of Parliament made on that Occaſion would not be in Effect thereby abrogated. The Act is the 33 *Edward* I. and the Words of it are: "If they that ſue for the King will challenge any Juror, they ſhall aſſign of their Challenge a Cauſe certain, and the "Truth of the ſame ſhall be inquir'd of according to the Cuſtom of the "Court." Now, my Lord, I beg leave to obſerve upon this Pannel there are 100 and odd Perſons, if Mr. *Attorney* is not oblig'd to ſhew his Cauſe of Challenge, when he challenges for the King, till all the Pannel is gone through, this Act of Parliament will be of no Validity whatſoever. If there had been but a few returned (24, or ſuch a Number,) then there might have been ſome Colour for going through the Pannel before there was any Cauſe aſſigned for the Challenge; but ſince this modern Practice has obtained to make ſo numerous a Pannel, if they are not oblig'd to ſhew Cauſe till the Pannel is gone through, that Law is intirely a dead Letter, and of no Significancy.

Ld. Ch. Juſt. You know your Objection is of no Validity; you cite an Act of Parliament, and you know the conſtant Practice is againſt you.

Mr. *Jus. Eyre.* Though the Counſel for the King muſt aſſign their Cauſe of Challenge, yet they are not oblig'd to do it till the Pannel is gone thro', and the Jury-men returned, who are not challeng'd, are all ſworn: This is a Rule laid down in *Hale*'s Pleas of the Crown, and has been always the conſtant Practice in Caſes of this kind.

Mr. *Hungerford.* What your Lordſhip directed in the laſt Caſe is certainly precedented; but I would propoſe it as a Convenience that the *Attorney* ſhould, as he is every ways entitled, have the Precedence, and might challenge firſt, and then we will determine after him.

Ld. Ch. Juſt. No, we muſt not do that.
Cl. of the Cr. *John Lowry.* ſworn.
Cl. of the Cr. *John How.* ſet aſide for want of Freehold.
Cl. of the Cr. *Thomas Pratt.* ſworn.
Cl. of the Cr. *Richard Rogers.*
Priſoner. I don't challenge him.
Mr. *Att. Gen.* I challenge him for the King.

Cl. of the Cr. *Edward Pierſon.*
Thomas Bland.
William Spilltimber.
Alexander Weller.
Thomas Rand.
John Engliſh.
Joſeph Unwin.
George Frye.
} Challeng'd by the Priſoner.

Cl. of the Cr. *Weſton Stileman.*
Priſoner. I don't challenge him.
Mr. *Att. Gen.* I challenge him for the King.
Cl. of the Cr. *John Cruſh.*
Priſoner. I don't challenge him.
Mr. *Att. Gen.* I challenge him for the King.
Cl. of the Cr. *Thomas Howlett.*
Priſoner. I challenge him.

Mr. *Serj. Pengelly.* I don't know this Method of proceeding: if the Priſoner makes any Challenge, it muſt be before he comes to the Book to be ſworn; but when he comes to lay his Hand upon the Book, he is too late to challenge then.

Priſoner. When ever I make a full Stop and don't ſay I challenge, you do.

Mr. *Att. Gen.* My Lord, the Priſoner is to declare whether he challenges or not; afterwards the King's Counſel are to declare whether they challenge for the King, and the Jury-man is not to put his Hand on the Book till then.

Ld. Ch. Juſt. He ought not to put his Hand on the Book till he is allowed a Jury-man; that if the King or the Priſoner challenge him, they may do it before he lay his Hand on the Book.

Cl. of the Cr. *Joſeph Capon.*
Priſoner. I don't challenge him.
Mr. *Att. Gen.* I challenge him for the King.

Mr. *Hungerford.* More have been challenged for the King than hath been known in any publick Tryal in my Remembrance.

Mr. *Att. Gen.* I am ſurpriz'd at this Obſervation, when the King has an undoubted Right of challenging whom he pleaſes, without ſhewing Cauſe till the Pannel is gone through.

Ld. Ch. Juſt. It is always done.
Cl. of the Cr. *John Clarke.*
Priſoner. I challenge him.
Cl. of the Cr. *William Chandler.* ſet aſide for want of Freehold.
Cl. of the Cr. *William Burrowes.*
Priſoner. I challenge him.
Cl. of the Cr. *Francis Aylett*, Sen. ſworn.
Cl. of the Cr. *George Bailey.*
John Weekes.
Thomas Ruggle.
} Challeng'd by the Priſoner.

The Priſoner ſpoke to the Jury-man.

Mr. *Sol. Gen.* My Lord, it hath been intimated to the Priſoner once already, that he ought to propoſe his Queſtions to the Court.

Ld. Ch. Juſt. You are to ask no Queſtions your ſelf, if you will tell us the Queſtion, we will propoſe it.

Priſoner. Only to know how he ſpells his Name.

Cl. of the Cr. *William May.*
Abraham Lake.
} Challeng'd by the Priſoner.

Mr. *Hungerford.* My Lord, it will be of ſome little uſe to know for certainty how many he hath challeng'd; they differ here in the Computation.

Cl. of the Cr. He hath challeng'd 28 peremptorily.
Cl. of the Cr. *Nathaniel Weſsley.*
Priſoner. I don't challenge him.
Mr. *Att. Gen.* I challenge him for the King.
Cl. of the Cr. *Benjamin Rutland.*

Priſoner. My Lord, I deſire he may be asked whether he doth not farm ſomething under the King, or on the Foreſt.

Ld. Ch. Juſt. If it was of any Service to you it ſhould be done; but if it is ſo, it is no Objection.

Mr. *Ketelbey.* The Objection was once made in the Caſe of Sir *William Perkins*. It was recommended to the King's Counſel.

Ld. Ch. Juſt. I deny it. It was not recommended to the King's Counſel, but the King's Counſel did not inſiſt upon it.

Mr. *Jus. Forteſcue Aland.* The Court in that Caſe gave their Opinion, that to be a Servant to the King was no good Cauſe of Challenge, and my *Lord Chief Juſtice Holt* and *Treby* were preſent, and Mr. *Attorney General* did not inſiſt on the Jury-man ſo challeng'd, but wav'd the Matter without any Recommendation of the Court.

Mr. *Ketelbey.* I know no other ways, than if Mr. *Attorney* will do it, as it was done in that Caſe.

Mr. *Att. Gen.* I know nothing of the Fact.

Ld. Ch. Juſt. What do you do, do you challenge him or no?

Priſoner. I challenge him.

Cl. of the Cr. *Alexander Marſhall.*
Thomas Selby. } Challenged by the Priſoner.

Cl. of the Cr. John Milligande.

Mr. *Hungerford.* My Lord, he is ſearching for a Paper; he challenges him for Cauſe.

Priſoner. My Lord, what I have to offer is, that this Mr. *Milligande* hath been heard to ſay, before he came here, that I ought to be hang'd; and I apprehend that is good Cauſe for challenging him, if I make it out.

David Martin call'd.

Cryer. You ſhall true Anſwer make, *&c.*

Mr. *Hungerford.* Do you know Mr. *Milligande?*

Martin. Yes.

Mr. *Hungerford.* What have you heard him declare concerning the Priſoner at the Bar?

Martin. I heard him in Converſation ſay, that he hop'd he ſhould be hang'd, for he believ'd he was Guilty.

Mr. *Hungerford.* This Objection ſure is right. [Mr. *Milligande* was not ſworn.]

Cl. of the Cr. Robert Walker.

Priſoner. I challenge him.

Cl. of the Cr. William Nicholſon. ſworn.

Priſoner. My Lord, I have very near all my Challenges, I think they may go on as they are called, if Mr. *Attorney* will challenge no more.

Mr. *Att. Gen.* You may go on your own way, I ſhall make no Bargains with you.

Mr. *Ketelbey.* We don't offer any Bargain, but only an Expedient to ſave the Time of the Court.

Cl. of the Cr. Nicholas Freeman.

Priſoner. I challenge him.

Cl. of the Cr. Chriſtopher Hill. ſworn.

Cl. of the Cr. Stephen Wood.

Priſoner. I think I have done all my Challenges.

Cl. of the Cr. You have two more.

Priſoner. Let them take them then as they come.

Mr. *Att. Gen.* I challenge him for the King.

Cl. of the Cr. Richard Bridge.

Priſoner. I challenge him.

John Bains ſet aſide by Conſent, by reaſon of Infirmity.

Cl. of the Cr. Robert Barnard. ſworn.

Cl. of the Cr. Leonard Bennett.

Priſoner. I don't challenge him.

Mr. *Att. Gen.* I challenge him for the King.

Cl. of the Cr. William Sandford.

Priſoner. My Lord, I have the ſame Objection to this Gentleman as to the other, he hath declared his Opinion before-hand, and that he muſt make a Sacrifice of me.

Ld. Ch. Juſt. Call your Witneſs.

Mr. *Martin* ſworn.

Mr. *Ketelbey*. Mr. *Martin*, do you know *William Sandford* of *Rumford*?

Martin. Yes.

Mr. *Ketelbey*. Have you had any Diſcourſe with him about the Priſoner at the Bar?

Martin. He ſaid, before he was ſummoned on the Jury, that if he was one of the Jury, he would be for hanging of him. [Set aſide.]

Cl. of the Cr. Thomas Waters.

Priſoner. Sir, I apprehend I have challeng'd Thirty five.

Cl. of the Cr. You have one more.

Priſoner. I will challenge no more, let them go on.

Cl. of the Cr. Thomas Waters. ſworn.

Richard Gray. ſworn.

William Wheatly.

Mr. *Hungerford*. I hope that what I am going to offer is proper. There is ſome little doubt how far he is gone in his Challenges, it is ſaid he hath one more, if the Court would indulge us ſo far as to let the Perſons challenged be called over.

Cl. of the Cr. It is impoſſible that we ſhould miſtake.

Mr. *Hungerford*. You ſay he hath one more.

Cl. of the Cr. Yes.

William Wheatly. ſworn.

Then the twelve Jurors who were ſworn were counted, and their Names were as follows, *viz.*

Thomas Clark, Gent.	*William Nicholſon*, Eſq;
Iſaac Potter, Gent.	*Chriſtopher Hill*, Gent.
Hezekiah Haynes, Gent.	*Robert Barnard*, Gent.
John Lowry, Gent.	*Thomas Waters*, Gent.
Thomas Pratt, Gent.	*Richard Gray*, Gent.
Francis Aylett, Gent.	*William Wheatly*, Gent.

Cl. of the Cr. Cryer, make Proclamation.

Cryer. O yes. If any one can inform, *&c.*

Cl. of the Cr. Chriſtopher Layer, hold up your Hand. Gentlemen of the Jury, look upon the Priſoner, and hearken to his Cauſe.

He ſtands indicted by the Name of *Chriſtopher Layer*, late of the Pariſh of St. *Andrew*'s *Holborn*, in the County of *Middleſex*, Eſq; For that he, *&c.* ——— Upon this Indictment he hath been lately Arraigned, and thereunto hath pleaded Not Guilty, and for his Tryal hath put himſelf upon God and the Country, which Country you are. Your Charge is to enquire whether he be Guilty of this High Treaſon, in Manner and Form as he ſtands Indicted, or Not Guilty. If you find him Guilty, you ſhall enquire what Goods or Chattels, Lands or Tenements he had, at the Time of the ſaid High Treaſon committed, or at any Time ſince. If you find him Not Guilty, you ſhall enquire whether he fled for it. If you find that he did fly for it, you ſhall enquire of his Goods and Chattels, as if you had found him Guilty. If you find him Not Guilty, and that he did not fly for it, ſay ſo, and no more, and hear your Evidence.

Mr. *Wearg*. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, This is an Indictment againſt the Priſoner for High Treaſon. The Indictment ſets forth, that he being a Subject of his preſent Majeſty King *George*, but not having the Fear of God in his Heart, nor conſidering the Duty of his Allegiance, as a falſe Traitor againſt his ſupreme, true, lawful, and undoubted Lord, contriving and to the utmoſt of his Power intending to change, alter and ſubvert the Government of this Kingdom, lawfully and happily Eſtabliſhed under his preſent Majeſty, and to depoſe and deprive his ſaid Majeſty of his Title, Honour, Royal State and Government of this Kingdom; and to advance to the Crown and Government of this Realm, the Perſon in the Life of the late King *James* the Second pretending to be Prince of *Wales*, and after the Deceaſe of the ſaid King *James* pretending to be and taking upon himſelf the Stile and Title of King of *England*, by the Name of *James* the Third; did upon the 25th Day of *Auguſt*, in the 9th Year of his preſent Majeſty's Reign, and at ſeveral other Days and Times, at *Layton-Stone*, in the County of *Eſſex*, falſely, malici-

ouſly, and traiterouſly, compaſs, imagine, and intend to Depoſe our ſaid Sovereign Lord King *George*, from his Title, Regal State and Government, and the ſaid King to kill and bring to utter Deſtruction.

The Indictment further ſets forth, That he the ſaid *Chriſtopher Layer*, to perfect and bring to Effect his Treaſon and traiterous Purpoſes, on the ſaid 25th Day of *Auguſt*, and at ſeveral other Days and Times, at *Layton-Stone* aforeſaid, together with divers other falſe Traitors, to the Jury unknown, did falſely, maliciouſly, and traiterouſly meet, conſult, conſpire and agree, to move and ſtir up an Inſurrection and Rebellion in this Kingdom, againſt our ſaid Soveraign Lord the King.

The Indictment further ſets forth, That he the ſaid *Chriſtopher Layer*, to perfect and compleat his Treaſon and traiterous Purpoſes, on the ſaid 25th of *Auguſt*, at *Layton-Stone* aforeſaid, with Force and Arms, did falſely, maliciouſly, and traiterouſly publiſh a certain malicious and ſeditious Writing, containing in it ſelf, and purporting to be, an Exhortation and Promiſe of Rewards to the Subjects of his ſaid Majeſty, to perſwade and excite them to take up Arms, and levy War againſt our ſaid Soveraign King *George*.

The Indictment further ſets forth, That the ſaid *Chriſtopher Layer*, together with other falſe Traitors, to the Jury unknown, to compleat and bring to Effect his traiterous Purpoſes, on the ſaid 25th Day of *Auguſt*, at *Layton-Stone* aforeſaid, with Force and Arms, did falſely, maliciouſly, and traiterouſly Meet, Conſult, Conſpire and Agree, to exalt to the Crown and Royal Dignity of this Realm the Perſon in the Life of the late King *James* II pretending to be Prince of *Wales*, by means of an Armed Force and Troops of Soldiers, for that Purpoſe to be raiſed and levied.

The Indictment further ſets forth, That the ſaid *Chriſtopher Layer*, to perfect his ſaid Treaſon, on the ſaid 25th Day of *Auguſt*, at *Layton-Stone* aforeſaid, maliciouſly and traiterouſly did raiſe, levy, and retain ſeveral Men, to the Jury unknown, to take up Arms and levy War within this Kingdom, againſt our ſaid Soveraign Lord the King.

That the ſaid *Chriſtopher Layer*, to perfect his treaſonable Purpoſes on the ſaid 25th Day of *Auguſt*, at *Layton-Stone* aforeſaid, together with divers other falſe Traitors, to the Jury unknown, did falſely, maliciouſly and traiterouſly Meet, Conſpire and Agree, to Take, Seize, Impriſon and Detain in Cuſtody the Sacred Perſon of our ſaid Soveraign Lord the King, againſt the Duty of his Allegiance, againſt the Peace of the King, his Crown and Dignity, and againſt the Form of the Statute in that Caſe made and provided. To this Indictment the Priſoner hath pleaded, Not Guilty.

Mr. *Serj. Pengelly*. May it pleaſe your Lordſhip, and Gentlemen of the Jury; the Priſoner at the Bar, Mr. *Layer*, comes now to be Tryed before you, for a wicked and deteſtable Conſpiracy againſt the Perſon of his Majeſty, and againſt his Government; and this, in favour of an Attainted and Abjured Pretender; a Pretender whom the Priſoner himſelf has abjured in Words, and ought to have renounced in his Heart.

The Indictment contains a Charge of High Treaſon againſt the Priſoner at the Bar, for Compaſſing and Intending the Depoſing the King, and alſo his Death and Deſtruction.

The particular Facts laid to prove this traiterous Imagination and Intent, and which the Priſoner put in Execution, in order to bring to Effect his Treaſonable Purpoſes, are five.

The Firſt is; That the Priſoner, with other Traitors did Conſult, Conſpire, and Agree to raiſe a General Inſurrection and Rebellion in this Nation, againſt his Majeſty.

The next; That he did publiſh a Seditious and Treaſonable Declaration, containing Incitements, and Promiſes of Rewards, whereby to excite and ſtir up his Majeſty's Subjects to take up Arms, and to levy War againſt his Majeſty within this Realm.

And farther; That he, with other Traitors, Conſpired, Conſulted and Agreed, by an armed Force, to Exalt, and bring the Pretender to his Majeſty's Crown, to the Throne of theſe Kingdoms, and to put him into the Poſſeſſion of the Government thereof.

That

That he hath provided, levied, and retained ſeveral Perſons, to take up Arms, and to levy War againſt his Majeſty within this Kingdom, for the Executing theſe Traiterous Purpoſes.

The laſt Overt-Act alledged, and to finiſh this Conſpiracy, is, That he, with the other Traytors, Conſulted, Conſpired, and Agreed to ſeize upon, and to impriſon the Sacred Perſon of His Majeſty.

Gentlemen, It is unneceſſary, when theſe Facts are opened to you, to acquaint you, that an Attempt of this Nature, if it had ſucceeded, would have been the Subverſion of the preſent Happy Eſtabliſhment, and the Proteſtant Succeſſion, ſo often confirmed by the Conſent of the whole Nation, and the only Security of your Religious and Civil Rights and Liberties; they would all have been expoſed to the Arbitrary Power of a Popiſh Faction, under the Tyranny of the Pretender.

Gentlemen, Having ſaid this to ſhew the Nature of the Offence; we (who are Counſel for his Majeſty) ſhall proceed to lay before you the particular Evidence againſt the Priſoner at the Bar; Gentlemen, we have been ſo fortunate as to diſcover, and ſhall produce before you, the very Plan it ſelf, upon which theſe Conſpirators proceeded, and which was to be put in Execution.

We ſhall produce the Plan under the Priſoner's own Hand-writing, and ſhew his acting correſpondent to that Plan, and in the Execution thereof; this Plan is a Compleat Scheme of a Treaſonable Inſurrection, if that may be called Compleat which tends to utter Deſtruction; for if the ſeveral Parts therein contained had been executed, it would have been a total Overturning of the Government and Conſtitution.

But you may obſerve a Regularity going thro' the whole Scheme.

The Place of Action, and the Scene where this Conſpiracy was firſt to be put in Execution, was in the City of *London*; and tho' in the Plan it ſelf the Day is not mention'd, yet we ſhall ſhew to you, by the Priſoner's own Declaration and Diſcovery, the Time when it was to be executed; it was at the breaking up of the Camp of his Majeſty's Forces in *Hide-Park*.

Gentlemen, The Plan contains a Diſpoſition of ſeveral Officers, who were appointed to their particular Stations, and were to be ſupply'd with Men deſigned to be procured for the Execution of this Plan; and, as the Conſpirators hoped to debauch part of the Army, theſe Officers were to be diſpoſed at ſeveral Places, to receive the private Men, who, to the Number of about Two Hundred (towards the Evening of the Day agreed upon for Execution) were to go ſingly out of the Camp, without their Arms, that they might more eaſily paſs without Obſervation, and were to be collected together at a Place of Rendezvous appointed them.

Gentlemen, From the Management of the Conſpiracy, and the Method they had taken to carry it on, and the Hopes they had entertained, the Conſpirators concluded, they ſhould have that Number of two hundred Men ready in one Body, to be commanded by proper Officers, to make the firſt Attempt, and the firſt Stand.

At the Place of Rendezvous they were to be ſupply'd with Muskets ready loaded, and to receive their Arms, which were to be diſtributed to them a little before the Hour of Nine; at which Hour exactly, they were to march directly to the *Tower* of *London*, (as the Plan propoſes, and as the Priſoner agreed and declared) where they might expect to be admitted, by the Help and Aſſiſtance of their Friend, the Officer upon the Guard; and as ſoon as they had enter'd, they were to ſhut up the *Tower* Gates, and ſeize the Arms.

Their General was to make his Stand in Perſon at the *Royal-Exchange*; at the ſame time, it is directed by the Plan, and was conſulted upon, and agreed by the Priſoner himſelf, they were to attempt to arreſt the Perſons of ſeveral Great Men; and although the Plan doth not name the Perſons, yet the Priſoner hath explain'd it fully, and from his own Mouth we ſhall prove, who the particular Perſons are, thus intended to be ſeized.

A Declaration was to be diſperſed to excite People to come in to the Rebels; The Gates of the City of *London* were to be ſhut up, and Canon brought down againſt them: They were then to ſet a Guard over the *Bank*; but in the firſt Place, they were to take out Money ſufficient to pay their Men, ſuch as they hoped would appear in their Intereſt: Their ſeveral other Parties were to ſecure

the Artillery in the *Camp*, the Guns in the *Privy-Garden*, the Cannon and Ammunition near the *Horſe-Guards* in St. *James's Park*.

Theſe were the firſt Operations: But to finiſh this Villainous and Execrable Deſign, at the Time the *Tower* was ſeized, and the City in Arms, they were to ſend a Detachment to Seize the Perſon of His Majeſty; and this they expreſs'd in their Plan to be, For the ſecuring His Perſon from the Mob. But our King was to be delivered to their General at the *Tower*, and to be put under his Cuſtody. Thus the Life of His Majeſty was to be in their Power.

After this there are ſeveral other Diſpoſitions of Officers, and other Perſons, in order to Excite and Carry on the Rebellion: Some were to appear in *Lothil-Fields*, ſome in *Southwark*, who were to give Arms to the *Minters*; ſome at *Greenwich*, to engage the Watermen, and ſeize the Magazine and Powder there, and Others at other Places.

Gentlemen, You will find in this Plan a Preparation to make an entire Conqueſt of the Cities of *London* and *Weſtminſter*; upon which the Conſpirators hop'd the reſt of the Kingdom would declare for the Pretender: And there is one particular Proviſion in the Plan, That as they proceeded here, and found Succeſs, the General ſhould immediately diſpatch Meſſengers into the ſeveral Counties of *England*, to give Intelligence of their Progreſs, and to perſuade thoſe, who they look'd upon to be in their Intereſt, to declare for the Pretender, and to riſe in their reſpective Counties with their Adherents.

This is the Plan upon which the Conſpiracy is Carried on; and, as we ſhall produce this Plan, which the Priſoner hath ſupplied himſelf with, and written with his own Hand, we beg leave to inſiſt upon that, as ſtrong Evidence againſt the Priſoner, upon the Overt-Acts alledged in the Indictment, of his Conſulting and Conſpiring to raiſe a Rebellion and Inſurrection in the Nation, and to ſeize the King's Perſon.

Gentlemen, Upon this Plan, which the Priſoner at the Bar had thus furniſh'd himſelf with, you will find, on the Examination of our Witneſſes, that he conſtantly acted; he declared for, and promoted the Execution of the principal Parts of it.

Gentlemen, The Witneſſes we ſhall call, who were engaged with the Priſoner at the Bar, in this Deſign, are *Stephen Lynch*, and *Matthew Plunkett*, (which laſt had been a Serjeant in the Army) with whom the Priſoner Conſulted, and whom he engaged in this deſperate Attempt; and we ſhall call ſome other Witneſſes to confirm ſeveral Circumſtances in their Evidence.

Mr. *Lynch* is a Perſon the Priſoner might have reaſonable Hopes of engaging in this Service: He had been formerly acquainted with one Dr. *Murphey*, who (I am inſtructed) was in the Rebellion that broke out in the Beginning of His Majeſty's Reign: Mr. *Lynch* having been abroad, and abſent for ſome time, return'd into *England* in *April* laſt: Upon his Return, Dr. *Murphey*, his old Acquaintance, meets with him, bids him welcome to *England*, and tells him that an Affair was going on by which he might make his Fortune, and adviſes him not to go out of *England*: That there was an Intention to riſe in favour of the Pretender, whom he called his King, and he would take care to recommend Mr. *Lynch* to a Perſon who had a great Part in that Affair.

Mr. *Lynch* having ſuffered before, and run a great Hazard, was unwilling immediately to enter into any Engagement, but propoſed, That if he could have ſufficient Encouragement, and what he expected as a Reward, he ſhould be willing to ſtay. Some time after Dr. *Murphey* introduces *Lynch* to the Priſoner at the Bar: The firſt time they met, I think, it was the Beginning of *June* laſt, they went to the Priſoner's Lodgings, which were then at the upper End of *Chancery-Lane*; and he being about to remove his Goods, deſired them to go to a Tavern hard by, the *Griffin* Tavern in *Holborn*. To this Place the Priſoner at the Bar came, where Dr. *Murphey* preſented *Lynch* to Mr. *Layer*, as the Gentleman Dr. *Murphey* had before recommended to him; Mr. *Layer* received Mr. *Lynch* at that time with great Civility, and tells him, that the Recommendation he had received of *Lynch* from Dr. *Murphey*, made him not to doubt of his Integrity and Ability. Then they entred upon a Conſultation as to the Carrying on of this Deſign; Mr. *Layer* introduced it with repreſenting an Uneaſineſs in the Nation in general, and how fair an Opportunity

there was to bring about a Revolution : But Mr. *Layer* tells him, that one of the Firſt and Principal Steps, was to ſeize upon a General, or other Great Man, (which you will obſerve is one part of the Scheme); and upon Dr. *Murphey*'s Recommendation of him as a Fit Man for that Service, *Layer* propoſes to *Lynch* to undertake it. At this time *Lynch* acquainted *Layer* with the Difficulties he had been in, and that an Affair of this Nature would take up ſome time before it could be put in Execution, and he could not well engage in it without ſome farther Encouragement, and a Reward in Money, in order that he might live eaſy and well while he ſtaid here. Upon that, the Priſoner at the Bar promiſed him Supplies of Money for his Subſiſtence, and Expences, what ſhould be neceſſary, beſides future Rewards; and in purſuance of that Promiſe, *Layer* hath ſeveral times ſupplied *Lynch* with Money, to engage him more effectually in this Deſign, and to ſupport him in it. By theſe Aſſurances *Lynch* was prevailed upon, and then agreed to enter into this Conſpiracy, and to take upon him the Part therein, that ſhould be ſignified to him.

Gentlemen, The Priſoner did not then make a full Diſcovery of the Perſon that was to be ſeized; but they were to meet again, as they did, about the latter End of *June*, at the ſame Tavern : There the Priſoner diſcloſed to the Witneſs the particular Perſon who was deſigned to be firſt ſeized. He acquaints the Witneſs, that the Perſon he (the Priſoner) intended at their former Meeting, and whom he deſigned the Witneſs ſhould ſeize, is the General of the Army, the Earl *Cadogan*; and *Lynch* was to find out ſuch other Perſons as he could rely upon, for the aſſiſting in, and effecting that Enterprize; whereunto *Lynch* agreed. *Layer* then acquainted him what Steps were already made in the Conſpiracy, and that they were to be headed and commanded by a General, who had Wit and Courage and Reſolution, and who was ſupported by a great many Friends, who had full Power and Authority from the Pretender (whom he called King) to act, and who was Intruſted with a Commiſſion as his General, and whoſe Orders *Lynch* was to obey.

The Priſoner and *Lynch* had ſeveral other Meetings, ſome at the *Griffin* Tavern, and others at the Priſoner's own Houſe in *Old Southampton Buildings*, where the Priſoner always encouraged *Lynch* to perſiſt in the Undertaking, by aſſuring him, that all Things went on well, and that the Deſign was ſo well laid, that it could not probably miſcarry : That they ſhould be aſſiſted by a great many Officers, as ſoon as any Motion was made, and that the Common Souldiers would declare upon the firſt Opportunity : and being ask'd by *Lynch*, whether they had no Foreign Aſſiſtance to depend on; the Priſoner anſwer'd, When we begin the Buſineſs, we ſhall not want Relief, if requiſite. At one of theſe Meetings the Priſoner revealed to the Witneſs, That, upon the Riſing, the *Tower* would be delivered up to them, by means of an Officer, who was to be upon the Guard there on the Day of Execution; and that the People in the *Mint* in *Southwark* would come in to them; who, and all others that ſhould repair to their Party, ſhould have Arms delivered to them; and that the whole Deſign ſhould be put in Execution at the Breaking up of the Camp, which would be the moſt proper Time for the ſpeaking with the Souldiers in the Army.

But at a Meeting they had, ſome time in *Auguſt*, at the *Queen's Head* Tavern in *Great Queen's Street* near *Lincolns-Inn Fields*, *Lynch* complaining of the Delay in putting their Deſign in Execution, and repreſenting the Danger of it, and withal preſſing to know his intended General and Commander, The Priſoner gave him great Encouragement, from the good Proſpect of their Affairs, and the Vigilance of the Noble-Man at the Helm, who would loſe no Opportunity, when a convenient Time ſhould offer; and promiſed the Witneſs, that he ſhould be preſented to this noble Perſon in due time, from whom *Lynch* ſhould receive his Orders, or Commiſſion for Executing his Part, and Entring upon his Enterprize.

And accordingly, upon the twenty fourth Day of *Auguſt*, Mr. *Layer* invites *Lynch* to ride out of Town with him the next Day to take the Air, which *Lynch* comply'd with; and on the twenty fifth of *Auguſt* in the Morning, *Lynch* went to the Priſoner's Houſe, who appointed *Lynch* to go before, and to ſtay without *Aldgate*.

At

At that Time the Priſoner aſked the Witneſs, whether he mounted with Furniture or Piſtols; who anſwering, that he did not, but that he had a Double-Barrel Fowling-Piece, which the Priſoner's Servant might carry; the Priſoner directed him to get his Piece ready loaden, becauſe he (*Layer*) ſhould carry ſomething with him, which he would not loſe for all the World. *Lynch* and the Priſoner met without *Aldgate* at eleven before Noon, and the Priſoner's Servant carried the Gun, and they rode together towards *Epping* in *Eſſex*, which was the Place they were going to.

Upon the Way as they proceeded, Mr. *Layer* told the Witneſs, that they were going to the Houſe of the Lord *North* and *Gray*, where he would preſent *Lynch* to his Lordſhip, as a particular Friend of his (the Priſoner's). When they came to the *Green Man* at *Layton-Stone*, at the Entrance upon *Epping Foreſt*, the Priſoner ſaid, it might be beſt to eat ſomething there, becauſe they ſhould be too late for the Lord *North* and *Gray*'s Dinner; and accordingly they ſtopt at this Houſe to Dine.

Gentlemen, You will hear from the Witneſs, that at this Place, the Priſoner and *Lynch* had another Conſultation, wherein there was a Repetition and Confirmation of the whole Deſign and Conſpiracy. At this *Green Man*, in your County, Gentlemen, you will find every principal Part of the Conſpiracy, which was to be executed, Conſulted upon, and Agreed unto by them Both: The Time and Manner of the Inſurrection, the Preparations making for it, the Aſſiſtance to be provided and expected from the Army, from many in the City of *London*, and from the Generality of the Nation, as was then ſuggeſted; The Seizing the Earl *Cadogan* as the firſt Step, and the Surprizing the *Tower* in the Manner mentioned in the Plan, by the Help of the Officer upon the Guard; and then they proceeded to Conſider and Approve the moſt daring and execrable Part of the Plan, which was then expreſly repeated by the Priſoner, The making a ſtrong Detachment to Seize on His Majeſty's Perſon.

The Priſoner then declared his great Satisfaction, in having engaged a Perſon of ſuch Courage and Conduct as Mr. *Lynch*, in the Attempt of Seizing the Earl *Cadogan*; and likewiſe named the ſeveral other Great Men, hinted at in the Scheme, whoſe Perſons were to be Seized, and of whom he had made up his Collection in purſuance of the Plan; and then expreſs'd his Wiſhes ſo to bring Matters to bear, that Mr. *Lynch* might likewiſe have the ſole Direction of Apprehending the Perſons of ſome of His Majeſty's Miniſters, the Lords *Townſhend* and *Carteret*, His Majeſty's Principal Secretaries of State, and Mr. *Walpole*, Firſt Lord Commiſſioner of the Treaſury.

Theſe Perſons, moſt immediately intruſted in His Majeſty's Service, were in the firſt Place to be Seized, in order to facilitate the Deſign, and to make it ſucceſsful. By this means the Conſpirators were to weaken His Majeſty's Power of Defending Himſelf, when they had deprived Him of His General, who was to Command and Conduct His Army; of His Two Secretaries, who were to Maintain and Carry on His Intelligence; and of the Firſt Commiſſioner of His Treaſury, who was to take care for His Supply.

At this Place theſe Things were debated and conſidered between them: Mr. *Lynch* then again complained of the long Delay, and wiſhed that the Affair might be carried on with more Expedition: The Priſoner thought no Time ſo proper as the Breaking up of the Camp, when they might be ſupplied with Souldiers; yet he was willing to hear any Propoſal from Mr. *Lynch*, and deſir'd Mr. *Lynch*, that if he could think of any ſpeedier Method, or better Scheme, to let him know it: But the Witneſs was not capable to propoſe any way more proper, than what had been agreed upon the Foot of the Plan, as it had been explained by the Priſoner himſelf, and therefore Mr. *Lynch* acquieſced therein.

Gentlemen, At that Time, and at the ſame Place, the Overt-Act laid in the Indictment, of Publiſhing the treaſonable Writing, was Committed; which was a Declaration framed in the Hand-writing of the Priſoner, to be Publiſhed immediately on the firſt Breaking out of the Conſpiracy, to Excite the King's Subjects to take up Arms, and to enter into a Rebellion againſt Him; and that it might have an Influence on the Army, where their Hopes were placed, it took notice, that the King's General was Seized, and in their Cuſtody.

In this Declaration particular Rewards are promiſed to the Horſe and Foot in the Army; different Allowances are made, To every Horſe-man and Serjeant Three Guineas; Two Guineas to every Corporal, and One Guinea to every Common Soldier: All had Promiſes of Encouragement, Favour, and future Reward.

Gentlemen, After this was read, the Priſoner put this Declaration up into his Pocket again; and afterwards (as he acquainted the Witneſs) he himſelf made an Alteration therein; it containing at firſt a General Invitation to a Revolt, but was not directed in the Name of any particular Perſon; therefore the Priſoner thought fit afterwards to alter it, (as he inform'd *Lynch*) and to make it in the Name of the Pretender, as King.

Gentlemen, Though their Hopes and Expectations were founded on Corrupting and Debauching the Army; I mention it only, as it was their Expectation and Deſign, without any Imputation on the Honour or Fidelity of the Gentlemen of the Army: But Perſons who undertake an Affair of this Nature, are always forward to expect that their Deſigns will be ſucceſsful.

This, Gentlemen, which I have mentioned to you, which will be more fully and particularly given in Evidence to you, againſt the Priſoner at the Bar, was Tranſacted and Committed in the County of *Eſſex*.

My Lord, This will be Evidence of Moſt of the Overt-Acts alledged in the Indictment in the County of *Eſſex*; but we ſhall Confirm this Evidence by the Confeſſion of the Priſoner, prov'd by Two Witneſſes, in whoſe Preſence he acknowledged the ſeveral Facts, which will be charged upon him in the County of *Eſſex*, by the Teſtimony of Mr. *Lynch*; and ſhall make Proof of other Overt-Acts in the County of *Middleſex*; for it was impoſſible a Deſign ſo extenſive ſhould be confined to one or two particular Places within the ſame County: Their Conſultations muſt be transferr'd from Place to Place, as Opportunity offered, and as they thought moſt conducive to the Purpoſe they were engaged in.

But the Facts I have laſt mentioned, were tranſacted, Gentlemen, in your County. After the Priſoner and Mr. *Lynch* had ſettled theſe Affairs at the *Green Man*, they went to the Houſe of my Lord *North* and *Gray* at *Epping*: They ſtaid there all Night, and dined there the next Day; the Witneſs was introduced and preſented to his Lordſhip by *Layer*, and was civilly received and entertain'd; and the Priſoner at the Bar, as he and *Lynch* returned home, asked the Witneſs how he lik'd his Lordſhip, and aſſur'd Mr. *Lynch* for his Encouragement, that he had greatly recommended him (the Witneſs) to his Lordſhip.

The Priſoner and *Lynch* met a ſecond time at the Lord *North* and *Gray*'s Houſe, where *Lynch* declared he would withdraw himſelf, if Things were not put in Execution; to which *Layer* reply'd, They would be ſooner put in Execution than *Lynch* imagined.

Gentlemen, You may perceive, by this Evidence, the Priſoner's Explanation of the whole Scheme, and his Execution of it, ſo far as was in his Power; tho', bleſſed be God, theſe, or any farther Attempts of this kind, have not hitherto prevailed.

The Priſoner proceeds farther; and the next Witneſs who will be produc'd againſt him, is one who had been a Serjeant in the Army, *Matthew Plunkett*. *Plunkett* had been formerly acquainted with the Priſoner, and done him a piece of Service; he was made uſe of to reſcue ſome Goods, when they were taken in Execution at the Houſe where *Layer* lodged, which was the beginning of their Acquaintance: This, with ſome other Recommendations from Perſons engaged in this Deſign, induced the Priſoner at the Bar to make Offers to him, as you will hear from the Witneſs.

In *June* 1722, another Perſon of the ſame Name, one *James Plunkett*, was directed by Mr. *Layer* to go to this Serjeant *Plunkett*, and deſire him to meet *Layer* at the *Italian* Coffee-houſe in *Ruſſel-Court*. The Witneſs could not at that time, at leaſt did not think it proper to go to the Place appointed; but a Day or two after, Mr. *Layer* meets him in *Lincoln's-Inn Fields*, and takes him aſide under a Gate-way near *Turn-ſtile*: *Layer* then told *Plunkett*, he would inform him of a Matter that would be of great Advantage and Benefit to him; there *Layer*

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let him into this Conſpiracy, and engaged the Witneſs in it, not only by aſſurance and promiſe of Reward, but by actual Reward and Money given him; and to induce and to encourage *Plunkett* the more, *Layer* acquainted him, that there were ſeveral Perſons of great Eſtates, who were reſolved to reſcue themſelves, and the Nation from the Calamities and Slavery that they then endured; and that they intended to bring about a Revolution, and reſtore their King the Pretender; *Plunkett* objected, that the Pretender was a Papiſt; but the Priſoner reply'd, there was no difference between a Papiſt and a Lutheran King, and therefore, that ought to make no Impreſſion upon *Plunkett*, to hinder him in joyning to bring in a Papiſt.

The Priſoner enquired of *Plunkett*, whether he had not an Acquaintance in the Army, with ſome Officers, and with the common Soldiers; and then engaged *Plunkett* to levy what Perſons he could in their Service; and when the Witneſs told *Layer*, he knew twenty or thirty Serjeants in the Army, proper Perſons to be apply'd to, the Priſoner gave *Plunkett* Directions to make Application to them, and to have them enroll'd; and at that Meeting the Priſoner gave the Witneſs Money for his Encouragement; and as they had ſeveral other Meetings after this, to provide and levy Men, the Direction and Employment given by *Layer* to the Witneſs, was, to take care to find out their Lodgings, and to make Liſts of the Men, of their Names, and Places of Abode, that they might be ready upon Notice.

The Priſoner not only employ'd *Plunkett* to procure, and inroll as many as he could get; but gave him Money for one particular Perſon, one *Child*, who had ſerv'd in the Army, and who was recommended to *Layer* by *Plunkett*, as a Perſon that had been diſoblig'd, by having been turn'd out of the Service; *Layer* himſelf gave *Plunkett* half a Guinea, for to give to this Perſon, to engage him in this Conſpiracy, which *Plunkett* accordingly paid *Child*; *Layer* likewiſe ordered Money at other times to be given to *Plunkett*, and at one time particularly acquainted him, that the Priſoner had left a Guinea with one *Jefferies* a Non-juring Parſon, to give to him, who had given *Plunkett* but half a Guinea.

The Priſoner at the Bar, to encourage *Plunkett*, acquainted him with the Perſons, whom *Layer* expected to join in this Conſpiracy; and ask'd the Witneſs his Opinion of ſeveral, the Witneſs will tell you the Names of the Perſons, and what Anſwers he gave; particularly, that *Layer* ask'd him, what he thought of the Lord *North* and *Gray*, for an Officer to be at their Head? The Witneſs anſwer'd, though he had never ſerv'd under him, he look'd upon his Lordſhip as a great Man.

They had Meetings at ſeveral times, when *Layer* inform'd him, that things were in a great Forwardneſs, tho' it was not yet a time to put their Deſign in Execution; but it went on ſo well, that it could not miſcarry; that the Duke of *Ormond* was to come with a ſingle Ship, with ſome Officers; and that the Deſign had been diſcovered to the *French* Embaſſador, who had given Intelligence thereof to his Majeſty, or elſe the Affair had been done before that time.

This *Plunkett* was employ'd, from time to time, to prepare Liſts of, and to collect and inrol fit Perſons to go on with this Deſign; and particularly, a Number of Serjeants, about twenty Five, being diſmiſs'd from the Army, the Priſoner engaged *Plunkett* to go immediately to thoſe Perſons, and take care to ſecure them.

Gentlemen, Theſe trayterous Conſults, and Tranſactions, were in *July* and *Auguſt*; and the Witneſs will acquaint you more fully with the ſeveral Particulars. There was one Encouragement, which the Priſoner gave to this Witneſs, which he did not mention to the other; he told *Plunkett*, there would be an Army of *Dutch* to come over in Aid of his Majeſty, but the Witneſs ſhould ſee a Number of half-pay Officers, eſpecially thoſe of the Name of *Fitzgerald*, on the Side of his King (the Pretender) that they could not doubt of Succeſs.

Gentlemen, Under theſe Encouragements and Promiſes, and with theſe Rewards, both theſe Perſons, the two Witneſſes, were engaged by the Priſoner, to enter into, and go on with this Conſpiracy: The Priſoner met them apart from time to time; they concerted, and carried on ſuch Meaſures, as they thought proper to execute this Deſign, upon the foot of the Plan, which hath been mentioned, and will be produced to you.

After we have produced the Scheme, and likewiſe examined theſe two Witneſſes, who will give you an Account of the Progreſs which the Priſoner made in this

this Treaſon; we ſhall give you other plain and evident Proof, which will demonſtrate the treaſonable Intent of the Priſoner at the Bar, and his Hopes of Succeſs.

We ſhall prove that the Priſoner hath been at *Rome*, and by his own Confeſſion, that he had ſeen the Pretender, and had Conferences with him.

We ſhall prove, that the Priſoner had Blank Promiſſory Notes, or Receipts for Money, ſigned with the Pretender's own Hand, by the aſſumed Title of *James Rex*, found amongſt *Layer*'s Papers, which were remitted to him from *Rome*, and which he has acknowledged were ſent over to him, for the raiſing of Money to carry on the Cauſe of the Pretender: This is a ſtrong Evidence of the Truſt and Credit repoſed in him to execute this Conſpiracy; that the Priſoner is a Perſon fully intruſted; the Receipts are in Blank, and the Priſoner had Power to raiſe Money on them, and to fill them up with ſuch Sums, as he thought proper and neceſſary.

Gentlemen, on the Examination of our Witneſſes, it will appear, that Mr. *Layer* declared, he had expended great Sums of Money in this Affair, and that he has made it an Excuſe, why he had not Money to ſupply ſome Demands, becauſe he had disburs'd ſo much.

This therefore was to be his full Power to raiſe Money, towards bringing the Pretender to the Throne.

Beſides theſe Receipts, he had furniſh'd himſelf with Liſts of the Officers of the Army, in order to know the Situation and Condition of the Army, and to conſider what Advantage he could make by any of thoſe in the Liſts: He had provided himſelf with Liſts of the Officers of the Tower, which, we apprehend, was to render the Deſign of ſiezing the Tower, when their Friend the Officer was on the Guard, more probable and hopeful.

Beſides this, we have Letters which will be produced, that paſs'd between Sir *William Ellis*, an Adherent of the Pretender's at *Rome*, and Mr. *Layer*, by the Name of *Fountaine*, (a Name he went by) encouraging him to go on with this Deſign: We have the Cypher, and the Explanation of the Cant Words uſed in thoſe Letters. In one Letter *Ellis* ſays, the beſt Method of carrying on the Manufactory, (which is the Inſurrection) is to get good Workmen, (by which is meant Soldiers) and particularly to gain ſome of the ableſt of Mrs. *Barbara Smith*'s, (by Mrs. *Barbara Smith* is ſignified the Army) and this would be very agreeable to all concern'd, particularly to Mr. *Atkins* (which by their Cypher or Key is a Name for the Pretender.)

And in another Letter, there is particular mention of Mr. *Layer*'s intended General; you will find in the Letter an Explanation of him, thus; that *he*, who the Priſoner in his Letter called *Simons*, and deſcribed as a Tenant, though his Name was not then found in the Rentall, this Writer believ'd, he ſhould be called *Simmes*, and ſays, he is of the *North*, a grey hair'd ancient Man, for whom his Friend has a particular Eſteem and Value, as a very good Tenant. This is the Deſcription, and this is the Cant that paſs'd between them; the Explanation you will apprehend, by the Cyphers that were found amongſt the Priſoner's Papers.

Mr. *Layer* was not wanting in other Preparations for this Attempt; for he had provided Arms in his own Houſe, more than he could have Occaſion for, as a private Subject; he had ſeveral Muſquets, and other Fire-Arms; he had forty or fifty Cartridges loaded with Bullets, ready made up for ſo many Diſcharges, which might be delivered out to the People who ſhould come in to them: If he had any uſe for ſuch a Quantity, he will ſhew upon what Occaſion.

The Diſcovery of the Facts made by the Witneſſes, occaſioned the apprehending Mr. *Layer*, in whoſe Houſe theſe Arms were likewiſe ſeized.

Mr. *Layer* was ſo conſcious of his own Guilt, that after he was apprehended, he made his Eſcape out of the Cuſtody of the Meſſenger, in whoſe Houſe he was placed; he offered a great Reward to Watermen to carry him off: This is a Demonſtration of his Guilt, from the Conviction of his own Conſcience.

Gentlemen, there are ſome other Matters and Papers, which it will be proper to offer to your Conſideration; and moſt of theſe particular Facts, which I have mentioned, or the moſt material of them, have been confirm'd by Mr. *Layer*'s own Confeſſion, which he made, upon his Examination before the Lords of the Privy Council. And when we have laid before you this Evidence, as according to my Inſtructions we ſhall very fully, I don't doubt, but that you will do your Duty as honeſt Men.

We don't apply to your Zeal, as you are Proteſtants and Engliſh-men; but, upon the Weight of the Evidence, we ſhall appeal to your Juſtice, to your Oaths, and to your Conſciences; whether upon the whole Proof to be laid before you, you will not remain fully ſatisfied, that the Priſoner at the Bar is guilty of the High-Treaſon, whereof he ſtands Indicted, and then that you do find him ſo.

Mr. *Att. Gen.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, I am Counſel on the ſame Side for his Majeſty againſt the Priſoner at the Bar, who ſtands indicted for High Treaſon, in compaſſing and imagining the Death of the King. The Preſervation of the Life of the King is of that great Importance to the Safety and Proſperity of his Subjects, that even Imaginations and Intentions (which are but Acts of the Heart) to take it away, manifeſted by Overt Acts are an Offence of the higheſt Nature which the Law takes notice of; but as Imagiſations and Intentions of Men are ſecret, and can't be diſcovered but by their Actions, there muſt be Proof of ſome Fact done in order to carry ſuch Intentions into Execution, to make the Offenders guilty of Treaſon: Therefore in this Indictment five ſeveral Overt Acts are laid; the firſt is, that the Priſoner at the Bar propoſed conſulted and agreed with divers Perſons unknown to the Grand-Jury, to raiſe an Inſurrection and Rebellion within this Kingdom againſt his Majeſty; the ſecond, that he publiſhed a traiterous Writing, purporting an Exhortation, Encouragement, and Promiſe of Rewards, to perſwade his Majeſty's faithful Subjects to take up Arms againſt him; the third, that he propoſed, conſulted and agreed to ſet the Pretender on the Throne by armed Force; the fourth, that he liſted Men to levy War againſt the King, and the fifth, that he propoſed, conſulted and agreed to ſeize and impriſon his Majeſty's ſacred Perſon.

Gentlemen of the Jury, you will readily agree with me, that nothing can be more dreadful to a true *Briton* who hath any regard to himſelf or his Poſterity, or Love to his Country, than the fatal Conſequences that muſt have inevitably attended ſuch wicked Deſigns, had they been carryed into Execution with Succeſs: Suppoſe a Rebellion had been only rais'd, what could any Man have expected from a Rebellion in the Heart of the Kingdom, but Plunder and Rapine, and Murder, a total Suſpenſion of all Civil Right, and as long as the Storm had continued, a juſt but terrible Apprehenſion of ſomething yet worſe to come: This would certainly have been the Caſe, tho' the Attempt ſhould have been diſappointed at laſt. But had it been attended with Succeſs, had his Majeſty's ſacred Perſon been ſeized and impriſon'd, and had the Pretender been placed on the Throne, what a Scene of Miſery had open'd! A mild Adminiſtration govern'd by the Law of the Land under an excellent Prince, and as juſt and merciful as ever wore the Crown, muſt have given way to Arbitrary Power; all your Eſtates and Properties muſt have been at the Will of a provoked and exaſperated Uſurper, Liberty muſt have given Way to Slavery, and the beſt of Religions to Popiſh Idolatry and Superſtition, and this humanely ſpeaking without any Proſpect or Hopes of Relief; nor would theſe dreadful Calamities have been confin'd within the Bounds of the King's Dominions, for ſhould the preſent happy Eſtabliſhment in his Majeſty and his Royal Family (the chief Bulwark and Support of the Proteſtant Intereſt) be deſtroyed, the Proteſtant Religion in general muſt be reduced to the loweſt Ebb, if not totally extinguiſhed.

This is the Nature of the Crime, and theſe ſome of the fatal Conſequences that muſt have enſued, if the Deſigns charged upon the Priſoner by the Indictment had took Effect. But whether he is guilty of this great Offence, is what you Gentlemen of the Jury are now to try.

My Lord, 'tis my part to open the Nature of the Evidence that we ſhall produce to prove the ſeveral Overt Acts laid in the Indictment, and in ſtating it to your Lordſhip and the Jury, I ſhall follow the courſe of Time in which the Facts were done, that the Caſe may be more eaſily apprehended, and ſhall open nothing but what I believe will be clearly verifyed by Proof.

This Priſoner at the Bar, tho' brought up to the Profeſſion of the Law, and a Practiſer in it, went beyond Sea in the Year 1720, and at the Cloſe of that Year according to our Stile, or the beginning of the Year 1721. arrived at *Rome*, where the Pretender then was; while the Priſoner was there, he procured himſelf to be introduced to the Pretender, and had two private Conferences with him, in which (but by what Methods or Repreſentations is beſt known to himſelf) 'tis plain he obtained the Pretender's good Opinion ſo far, that he thought him a fit Perſon in whom a Confidence for carrying on any Deſigns againſt his Majeſty, and for ſet-

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ting himſelf on the Throne, might be ſafely repos'd: For this purpoſe a Correſpondence was then ſettled between the Priſoner and ſome Perſons of Diſtinction about the Pretender, and a Cypher of Names of Perſons and Things was agreed on, in order to carry this Correſpondence on. The Priſoner return'd to *England* about *July* 1721, after which he writ Letters to his Correſpondent at *Rome*, and Anſwers to them came from thence, whereby it will appear, that the Priſoner had undertook a conſiderable Part in the Deſign then carrying on to bring the Pretender in, and altho' theſe Letters are in obſcure and cant Terms and fictitious Names, yet by the Help of the Cypher and from the Nature of the Letters themſelves, it will eaſily appear to a common Underſtanding for what purpoſe they were writ: This Cypher and Letters we ſhall prove to have been found among the Priſoner's Papers, which were ſeiz'd ſoon after his Commitment, and your Lordſhip and the Jury will ſee when they come to be read, that notwithſtanding the obſcure Terms, and the myſterious Expreſſions inſerted to dazzle the Eye of the Reader, when compar'd with the Cypher they will be ſo intelligible, that they will be a plain Evidence that a Deſign was carrying on of raiſing a general Rebellion in favour of the Pretender; for which purpoſe a Scheme in Writing was prepared, which we ſhall lay before your Lordſhip and the Gentlemen of the Jury, that was likewiſe found among the Priſoner's Papers; and we ſhall prove it to be writ with his own Hand.

Mr. *Serjeant Pengelly* opened the Nature of this Scheme very fully, I ſhall not trouble your Lordſhips with a Repetition of what he ſaid; when it comes to be read it will appear to be calculated for a general Riſing, it will prove a form'd Deſign to ſeize the Tower, to ſeize Perſons in great Stations, to ſeize the Bank, and then at laſt to ſeize the Perſon of the King himſelf, and to ſeize his Royal Highneſs the Prince of *Wales*. This we apprehend will be a ſtrong Evidence of the Overt Acts laid in the Indictment, and will confirm the Teſtimonies of the Witneſſes which we ſhall produce.

There are two Witneſſes we ſhall call to prove the Overt Acts laid in the Indictment, they have already been mentioned to your Lordſhip Mr. *Stephen Lynch*, and Serjeant *Matthew Plunkett*. Mr. *Lynch* will prove the ſeveral Overt Acts laid in the Indictment to have been committed by the Priſoner in the County of *Eſſex*, where this Indictment was found, as alſo Overt Acts of the ſame Nature committed by him in the County of *Middleſex*. But as 'tis improper to fall directly upon the Proof of thoſe Facts, without firſt proving ſome other Facts by way of Introduction, as how the Acquaintance between Mr. *Lynch* and the Priſoner at the Bar began, and how they came to be ſo intimate as to enter into a Deſign of this Nature, Mr. *Lynch* will give your Lordſhips and the Jury an Account; that there had been an Acquaintance between this Mr. *Lynch* and one Dr. *Murphey* eight or nine Years ago, that they had agreed to join in the Rebellion which was in the beginning of his Majeſty's Reign; after that was over, Mr. *Lynch* went beyond Sea, and continued there ſome time, and arrived in *England* in *April* laſt, that their Acquaintance continued, and their Principles were not altered; Mr. *Lynch* meeting Dr. *Murphey*, Dr. *Murphey* (who hath been mentioned to your Lordſhips on a late Occaſion in this Court, and is not now to be found, but had a great Acquaintance with the Priſoner at the Bar) told him he had ſomething advantageous to communicate to him, and appointed a Meeting next Morning at a Coffeehouſe in *Cornhil*, where they accordingly met, and *Murphey* then adviſed him not to go out of *England*, becauſe he had an Opportunity of making his Fortune, telling him there would be a general Riſing in Favour of the Pretender (whom he call'd King) and that it was carry'd on by Gentlemen of Note and Credit; and if he would accept of the Service, he would recommend him to one greatly concerned in that Affair; Mr. *Lynch* after Conſideration agreed to ſtay—After ſeveral other Meetings between this Dr. *Murphey* and Mr. *Lynch*, at which their Diſcourſe generally turned upon this intended Riſing; about the beginning of *June*, Dr. *Murphey* introduced Mr. *Lynch* to the Priſoner as a Perſon fit to be entruſted in the intended Enterprize; they went to the *Griffin* Tavern in *Holbourn*; Mr. *Layer* there expreſſed the good Opinion he had of Mr. *Lynch* upon the Character he had received of him from ſo good a Friend as this Dr. *Murphey*. They ſoon enter'd upon Buſineſs, and the Priſoner after having made a Repreſentation of the Uneaſineſs of the Nation in general, and of the fair Opportunity there was to bring about a Revolution, propos'd to Mr. *Lynch* to ſeize ſome General, to which the Witneſs agreed. After this they had ſeveral

other

other Meetings, at which their Diſcourſe turn'd upon the ſame Subject of a general Riſing in order to ſet the Pretender on the Throne, and at one of them the Priſoner declared he intended *Lynch* ſhould ſeize the Earl of *Cadogan*, and that the Scheme was laid on a ſound Foundation, having a great Man at the Head of Affairs, who wanted neither Wit, Courage nor Reſolution, and who would be back'd by his Friends. Several other Propoſitions were made by the Priſoner tending to the ſame End; to all which Mr. *Lynch* agreed, and they conſulted how they might put thoſe things in Execution. In *July* laſt Mr. *Layer* went into the Country for fourteen or fifteen Days, and after his Return in the beginning of *Auguſt*, in Purſuance of what they had concerted, Mr. *Lynch* and he went to view the Earl of *Cadogan*'s Houſe, to ſee how practicable that Deſign of ſeizing him at his Houſe was. Mr. *Lynch* thought it feaſible, but he grew uneaſy at Delays, and frequently told the Priſoner that his Circumſtances would not permit him to continue here at his own Expence; therefore to encourage him to ſtay, and perſevere in the Deſign, Mr. *Layer* gave him ſeveral Sums of Money.

My Lord, Upon the 24th of *Auguſt* laſt, the Priſoner and Mr. *Lynch* agreed to ride out the next day to take the Air; on the 25th according to Appointment (which brings us now to the Overt Acts in the County of *Eſſex*) they rid out together; the Priſoner thought it proper to ride with Arms, alledging that he had things about him he would not loſe for any thing in the World. Upon the Road he told Mr. *Lynch* they would go to Lord *North* and *Grey*'s, with whom the Priſoner had the Honour to be well acquainted, and he would preſent Mr. *Lynch* to my Lord as his particular Acquaintance. It happened to be too late to get to Lord *North* and *Grey*'s by Dinner, whereupon they put in at the *Green-Man* near *Epping-Forreſt*, which, Gentlemen, is at *Layton-ſtone* in your County. Dinner not being ready at their coming thither, they entred into Converſation on the former Topicks, and Mr. *Lynch* deſiring to give him ſome inſight into the Scheme that was formed, the whole ſubject matter of their former Conſultations and Diſcourſes were repeated about ſeizing Lord *Cadogan*, ſeizing the Miniſters of State, of getting part of the Army to declare for them, and for ſeizing the King's Perſon; and theſe things were then agreed to by them. At this Place it was, that the Priſoner pulled out of his Pocket, and ſhew'd to Mr. *Lynch* the traiterous Writing laid in the Indictment, which was a Declaration to encourage a general Riſing, writ as the Witneſs believes in the Priſoner's own Hand; and that Part which contained the Promiſes of Rewards to be given to the Soldiers and other Perſons to encourage them to come into their Deſigns was read by the Witneſs, after which Mr. *Layer* took his Paper away, and put it up in his Pocket again. My Lord, when they had dined, they went on to Lord *North* and *Grey's* Houſe (whom your Lordſhip will hear mentioned by the Evidence as the Perſon thought on to be General in this Undertaking;) they ſtaid there that Night, and dined there next Day, and afterwards they had a ſecond Meeting at Lord *North* and *Grey*'s. Your Lordſhip, and the Jury will be pleaſed to obſerve, that this Evidence will be a full and poſitive Proof by this Witneſs, that the Overt Acts of publiſhing this traiterous Writing, encouraging Perſons to take up Arms againſt his Majeſty, of the Conſultations and Agreement to levy War, to ſet the Pretender on the Throne, and to ſeize his Majeſty's Perſon, were done at the *Green-Man* in the County of *Eſſex*: And this will likewiſe be an Evidence, that all the Overt Acts laid in the Indictment (except publiſhing the traiterous Writing) were done in the County of *Middleſex*.

My Lord, The next Witneſs we ſhall produce is *Matthew Plunkett*, formerly a Serjeant in ſome Regiment; he had been formerly acquainted with, and had been ſerviceable to the Priſoner, and was very well acquainted with one *James Plunkett*, which *James Plunkett* was a great Acquaintance of the Priſoner's. This *James Plunkett* deſired the Witneſs *Matthew Plunkett* to meet the Priſoner in *July* laſt, at the *Italian* Coffee-houſe in *Ruſſel-Court*, which the Witneſs could not comply with; but the Witneſs met the Priſoner the *Sunday* following in *Lincoln's-Inn-Fields*, they were together near an Hour, the Priſoner gave him an Account of the intended general Riſing, and ask'd the Witneſs if he knew any old Serjeants or Soldiers who could diſcipline a Mob, agreed with him to procure ſuch, mentioned to him ſeveral Perſons fit to be at the head of this Enterprize; and in order to make him diligent, he gave him at that time half a Crown: And Money was not only given him at that time, but a Promiſe was

made

made to him of further Rewards. The Priſoner having occaſion to go into the Country, one *Jeffreys* a Non-juring Clergyman was ſent to *Matthew Plunkett* by *Layer* (and this Fact that I am going to open muſt not be barely conſidered as an Act between *Jeffreys* and *Plunkett*, but it will be brought directly home to the act of *Layer* himſelf.) *Jeffreys* told *Plunkett* he came from the Priſoner, and that he was employ'd by him to go to ſuch as the Witneſs was, who were old Serjeants, to get a Number of them together to diſcipline the Mob, in order to the general Riſing: The next Day they met again, and had the like Diſcourſe, and *Jeffreys* gave *Matthew Plunkett* half a Guinea; and what brings this home to the Priſoner is, that he told *Plunkett* he had left a Guinea with the Non-juring Parſon to give him, and talk'd with him on the ſame Subject that *Jeffreys* had diſcours'd the Witneſs before. But in fact *Jeffreys* did not give *Plunkett* the Guinea, he gave him but half a Guinea.

My Lord, After Mr. *Layer* went out of Town *Plunkett* gave him an Account what Progreſs he had made in the Affair. *Plunkett* told him that he had got ſeveral old Soldiers that would bear a part in this Buſineſs: The Priſoner ſaid he muſt take care to keep a Liſt of their Names, and the Places where they lived, that they might be in a Readineſs when they ſhould have Occaſion for them. And on *Sunday* before the Priſoner was taken up, he told this *Plunkett*, that a great many of his Countrymen were turn'd out of the Guards, and ask'd him if he knew where they lodg'd; and upon the Witneſs's Anſwer that he did not, the Priſoner directed him to take a Liſt of their Names and Places where they lodg'd, that he might have them when Occaſion required. So that here is Mr. *Lynch* a poſitive Witneſs as to the Overt Acts in *Eſſex*, Mr. *Lynch* and Mr. *Plunkett* poſitive as to the Overt Act in *Middleſex*, and their Teſtimony confirm'd by the Scheme under the Priſoner's own Hand, and other Papers which we ſhall produce found among his Papers, which will leave no room to doubt of the truth of their Evidence. Beſides, my Lord, the Priſoner being ſeized in *September* laſt, we ſhall give an Account when he was in Cuſtody of a Meſſenger lock'd up in a Room two pair of Stairs high, he made a ſhift to make his Eſcape, got to the Water-ſide, and got a Sculler to carry him over the River; he actually got over the River, but he was retaken again in St. *George's-Fields*, and brought back to the Meſſenger, and offer'd very conſiderable Sums to the Perſons who retook him to let him go. I believe it is hardly to be imagin'd, a Perſon perfectly Innocent would venture to get out of a Room two Story high, and in the manner he did, and offer to give ſuch a Reward to the Perſons who retook him to let him get off; he muſt be conſcious to himſelf that he was in very great Danger. There were likewiſe found in his Houſe Arms more than neceſſary for his Uſe, and which he has confeſs'd were to be uſed if there had been a Riſing.

My Lord, To corroborate the Teſtimony of the Witneſſes, we ſhall lay before your Lordſhip and the Gentlemen of the Jury, the ſeveral Papers which were found, I may ſay, in Mr. *Layer*'s Cuſtody; I don't ſay they were actually taken in his Cuſtody, but it will come to the ſame thing, for he had delivered them in two Parcels to Mrs. *Maſon* the Witneſs, whom we ſhall produce, with Directions that ſhe ſhould take particular Care of them, and they were ſeized in her Cuſtody not long after the Priſoner was committed to the Cuſtody of a Meſſenger; ſhe ſaw every one of them mark'd by the Perſons who ſeiz'd them, and mark'd them herſelf: There are not only the Scheme and the Cyphers and Letters mentioned before, but alſo ten promiſſory Notes ſubſcribed by the Pretender; theſe promiſſory Notes run,

I Acknowledge to have receiv'd from the Sum of which Sum I promiſe to repay with an Intereſt for it at the Rate of per Ann.

JAMES *R.*

Can any Man imagine, if there was nothing elſe to explain them, that theſe Notes were there for nothing? Every Body muſt believe that they were intended to be made uſe of to carry on the Conſpiracy; but we ſhall ſhew by the Priſoner's own Confeſſion, that they were ſent over to him by Sir *William Ellis*, in order to be made uſe of as occaſion ſhould ſerve, to promote theſe Deſigns in favour of the Pretender. Among theſe Papers ſeveral Liſts were found, which will be produced, ſome of which contain the Number of the Officers and of the Soldiers in the Guards, ſome the Names of other Officers and Soldiers, and ſome the Number of the Officers belonging to the Tower. It muſt be owned, that in ſome of thoſe Liſts,

Liſts, there are the Names of ſeveral Perſons of as great Honour, Loyalty and Fidelity to his Majeſty, as any Subjects his Majeſty hath; yet the procuring theſe Liſts could be for nothing but to get an Information of the Number and Character of the Perſons in his Majeſty's Service, to know the Strength of his Majeſty's Forces, that Intelligence might be given and Schemes framed accordingly, and that there might be tampering with ſuch as there could be any Hopes of bringing over into the Pretender's Intereſt: If the Priſoner can put any other Conſtruction upon his having theſe Liſts in his Cuſtody, he will have an opportunity to do it. Theſe things being proved, I apprehend there remains no doubt but that the Priſoner will appear to be guilty of the Crime charged on him in this Indictment: But beſides all this we ſhall prove his Confeſſion by two Witneſſes, whereby he has confeſs'd every Overt Act laid in this Indictment, the ſeveral Tranſactions that Mr. *Lynch* and *Plunkett* will give account of, and almoſt all the Facts that I have mention'd before. I ſhall conclude with this, Gentlemen of the Jury, that if we make out theſe Facts as they have been opened, and according to my Inſtructions I have no reaſon to make the leaſt Queſtion of it, it muſt be left to your Conſideration whether the Priſoner at the Bar is guilty of the Offence for which he ſtands Indicted or not: If you ſhall be ſatisfyed by the Evidence that he is, I do not doubt but you will do Juſtice, (which is all that is deſired of you) and find a Verdict for the King.

Mr. *Soll. Gen.* If your Lordſhip pleaſes, we will now proceed to examine Witneſſes, and we deſire that room may be made for the Witneſſes to come into Court. Call Mr. *Stephen Lynch.*

Ld. Ch. Jus. You muſt make way there.

Priſoner. My Lord, I humbly deſire before this Witneſs be ſworn, that he may be examin'd upon a *Voyer dire*, whether he hath not a Promiſe of Pardon, or ſome other Reward for ſwearing againſt me.

Ld. Ch. Jus. Sir, you can't ask him that Queſtion.

Mr. *Hungerford.* I hope we ſhall be at Liberty, and have a Right to enter into an Examination of this Matter. If a Man is repreſented to be in the ſame Circumſtances with the Priſoner, and the Priſoner led into the ſame Circumſtances by the Perſon propoſed as a Witneſs, and afterwards by him involv'd in the ſame Offence; if the Perſon therefore propoſed as a Witneſs, hath a Promiſe of Pardon or ſome Reward, upon Condition that he would ſwear againſt the Priſoner, he cannot by Law be a good Witneſs; the Perſon propos'd as a Witneſs, muſt be a credible Witneſs, muſt be a legal Witneſs, muſt be not convicted of Perjury or any other notorious Offence, a free Witneſs that is not under reſtraint for the Offence he accuſes another of; and therefore we hope we have a Right of asking whether he acts under the Influence of any Promiſe of Reward, or the Promiſe of a Pardon: And the Right we have of examining him to the Promiſe of a Reward or Pardon, is ſupported by the Authority of my Lord Chief Juſtice *Hale*, as reported by *Kelynge*.

Mr. *Ketelbey.* My Lord, I wou'd not take up your Lordſhip's time, and ſubmit the Weight of what Mr. *Hungerford* has offered to your Conſideration, but we found our Right of asking this Queſtion upon my Lord Chief Juſtice *Hale*'s expreſs Declaration, ſet forth at large in *Kelynge*'s Reports *fol.* 18, which I have here in my Hand. I muſt likewiſe beg Leave to obſerve to your Lordſhip, that this Queſtion was formerly ask'd in the Tryal of *Gordon* and *Dorrell* to one *Adams*, that had been in the ſame Conſpiracy with thoſe that were brought to Tryal for High-Treaſon, and was then produced as a Witneſs againſt them; the Book was then brought into Court, and the Quotation read before your Lordſhip, and according to my Notes of that Tryal, which I have here brought with me for my Juſtification, (I ſubmit to your Lordſhip's Correction if I don't ſtate it right) *Adams* was ask'd that Queſtion, tho' it was long objected to by the King's Counſel. The Diſtinction my Lord Chief Juſtice *Hale* made was this.

Mr. *Jus. Eyre.* Read the whole Paragraph.

Mr. *Ketelbey.* I will, my Lord. The Words are theſe: "It was reſolved that "ſome of thoſe Perſons equally culpable with the reſt, may be made uſe of as Wit- "neſſes againſt their Fellows, and they are lawful Accuſers or Witneſſes within "the Statute 1 *Ed.* VI. 12. *& 5 & 6 Ed.* VI. *c.* 11. *&* 1 *Ma.* I. and accordingly "at the Tryal of theſe Men, ſome of them who were Parties in the Treaſon were "made uſe of againſt the reſt. For lawful Witneſſes within thoſe Statutes are "ſuch as the Law alloweth, and the Law alloweth every one to be a Witneſs, "who

" who is not convicted or made infamous for ſome Crime; and if it were not ſo " all Treaſons would be ſafe, and it would be impoſſible for one who conſpires " with never ſo many Perſons to make a Diſcovery to any purpoſe.

I was aware of what was here laid down, and therefore did ſubmit Mr. *Hungerford*'s Reaſon to your Lordſhip's Conſideration, and did not inſiſt farther upon it; the ſubſequent Words are theſe, "But the Lord Chief Baron *Hale* ſaid, That if " one of theſe culpable Perſons be promiſed his Pardon, on Condition to give " Evidence againſt the reſt, that diſableth him to be a Witneſs againſt the o- " thers, becauſe he is bribed by ſaving his Life to be a Witneſs: So that he " takes a Difference where the Promiſe of Pardon is to him for diſcloſing the " Treaſon, and where it is for giving of Evidence. But ſome of the other " Judges did not think the Promiſe of Pardon, if he gave Evidence, did diſable " him. But they all adviſed that no ſuch Promiſe ſhould be made, or any " Threatnings uſed to them in caſe they did not give full Evidence.

So that, my Lord, we have not only the Authority of that Book with us, but a ſolemn Precedent in this Court in point eſtabliſhed upon a long Debate, and grounded on that very Authority. And when I moved this Matter at the Trial of *Dorrell*, *Gordon* and *Kerr*, I then cited another Inſtance where it had been allowed by the Court, and that was before Mr. Juſtice *Powell* at *Worceſter* Aſſizes, upon the Tryal of *Palmer* and *Symonds* for the Murder of Mrs. *Palmer*: There a third Perſon concerned in the Fact came in as a Witneſs againſt the other two, and after it had been argued by Counſel, and that learned Judge had read upon the Bench, and conſidered this Authority, the Witneſs was at laſt ask'd this Queſtion upon a *Voyer dire*: And for the Truth of this Caſe as I reported it, I appeal'd to my Lord *Lechmere*, then Attorney-General, and who had been one of the Counſel at *Palmer*'s Tryal.

Mr. *Serj. Pengelly*. My Lord, We hope if there is any room for this Pretence which is inſinuated, it only goes as to his Credit, and does not diſable him from being a Witneſs, the Authorities produced are no more: The Judges directed that no ſuch Promiſe ſhould be made, but if ſuch a Promiſe was made, they agreed it doth not diſable him from being a Witneſs, as was mentioned by my Lord Chief Baron *Hale*; it is not like Money given, which is an actual Corruption; the Promiſe of Pardon is a thing voluntary in it ſelf: Who is the Promiſe to be made by? Is it in the Power of any Perſon but his Majeſty to perform it? If there is any thing in the Suppoſition, it is not proper to ask in relation to it upon a *Voyer dire* to prevent the Witneſs from being ſworn to give Evidence; but when he hath been ſworn, if they think fit to ask the Queſtion, he may.

Mr. *Att. Gen.* The asking the Witneſs this Queſtion, as 'tis irregular, ſo if it was anſwered in the affirmative, wou'd be of no Service to the Priſoner; for with Submiſſion, it will not diſable Mr. *Lynch* from being a Witneſs. Every Man is bound in Juſtice to give Evidence if required, and a Promiſe to have a Pardon if he gives Evidence againſt the Priſoner can be look'd on only to induce him to do that which by Law he ought to do according to the Truth: It does not import that he was to give a wrong or a falſe Evidence, ſuch a Queſtion he cannot be oblig'd to anſwer. And the greateſt Uſe the Priſoner could make of this, if ſuch a Promiſe was made to the Witneſs (which is not admitted) wou'd be only againſt the Credit of the Witneſs, but not entirely take off his Teſtimony; his Credit, as well as the Credit of all Witneſſes, muſt be left to the Conſideration of the Jury. As to the Opinion of my Lord Chief Baron *Hale* cited out of *Kelynge*, the other Judges differ'd with him, and therefore we hope Mr. *Lynch* ſhall be ſworn.

Mr. *Soll. Gen.* We who are Counſel for the King don't oppoſe the asking of this Queſtion, out of any apprehenſion that the Anſwer would come out againſt us, but for fear of overturning a Point that hath been long ſettled. As to the Book, which theſe Gentlemen cite to ſupport their Objection, with Submiſſion it is rather an Authority to over-rule it. The Opinion they found themſelves upon is, that of my Lord Chief Baron *Hale*, but the reſt of the Judges were of Opinion againſt him; ſo that we apprehend the Authority is with us, and likewiſe the Reaſon of the thing. I take it that no Queſtion is to be ask'd a Man upon a *Voyer dire*, but to a Fact that would take off his Teſtimony. Suppoſe then for Argument ſake, that there was a Promiſe of Pardon made to a Man upon Condition that he ſhould give Evidence; I apprehend that would not diſable him from being a Witneſs, any more than if the Condition had been that he ſhould declare

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the Truth, which it was his Duty to have done, although no ſuch Promiſe had been made: And ſurely the Promiſe of a Pardon upon a Condition to do that which was his Duty before, won't take off his Teſtimony. If they would ask the Witneſs whether he has accepted a Promiſe of a Pardon upon Condition to give falſe Teſtimony, that is a Queſtion, to which with great Submiſſion he is not bound to anſwer, becauſe that would be to examine him to accuſe himſelf of a thing which is unlawful. For theſe Reaſons, as well as upon account of the Authority they produce, we apprehend there is no Force in the Objection.

Mr. *Serj. Cheſhyre.* My Lord, I know not whether it would not be laying too great a Weight upon the Objection, for ſo many of the King's Counſel to anſwer to it, for my part I think it would.

Mr. *Hungerford.* I urge it thus far: Whatſoever Perſon is produc'd in a Court of Juſtice for a Witneſs, he muſt appear to be utterly unconcern'd in point of Intereſt in the Conſequence of the Tryal. If a Man produc'd as an Evidence to prove the Debt upon the Defendant, ſhall, upon being examined upon a *Voyer dire*, diſcloſe that he is to have a part of the Money to be recovered, is not ſuch Perſon diſabled from being a Witneſs at all? And is not a Promiſe of Pardon to the Witneſs, in caſe he convicts the Criminal, a greater Byaſs than the Witneſs's having part of the Money recovered? In a Civil Cauſe the Queſtion is not whether the Witneſs be tempted to ſwear a Truth or Falſhood, but whether the Witneſs doth not appear to be ſo far concerned in Intereſt, that he ought not to be examined at all. And therefore I humbly inſiſt that we ought to have an Account whether the Witneſs *Lynch* hath the Promiſe of a Pardon, or any Reward for that which he is to do here, *viz.* for the Evidence he is to give againſt the Priſoner. As to the Conſequence of ſuch an Enquiry, it is indifferent to me whether it will diſable him from being a Witneſs abſolutely, or go to his Credit only: For if it ſhould come out that he hath ſuch a Promiſe, we ſuppoſe no Jury or Man living will believe him, and that is much the ſame as if he were not produc'd, though it ſeems more agreeable to the practice in Civil Caſes, that he ſhould not be admitted as a Witneſs at all.

Mr. *Ketelbey.* Mr. Sollicitor miſtakes the Words of the Book as I read them, he is pleaſed to underſtand them as if all the reſt of the Judges differed in Opinion from my Lord Chief Baron *Hale*; but the Book does not ſay ſo, 'tis only that ſome of the other Judges were of Opinion that it did not diſable him, but all agreed that it went to his Credit, and that was all I read in the Book; and I would not have offered it otherwiſe than as it was truly there, upon any Conſideration whatſoever; but whether this Queſtion be ask'd at firſt or laſt, ſo as we have an Anſwer to it, I am contented.

Ld. Ch. Jus. You ſee the moſt you can make of it is, that it is an Objection to his Credit; and if it goes to his Credit, muſt he not be ſworn, and his Credit left to the Jury? He muſt be examin'd as a legal Witneſs; but if this Man, under Expectation and Promiſe of a Pardon, comes here to ſwear that which is not true, and you would ask him to that, he is not obliged to anſwer it. No body is to diſcredit himſelf, but always to be taken to be innocent till it appears otherwiſe. It is expreſſed that he has a Promiſe of Pardon: What to do? To give Evidence. Give Evidence! Why ſhou'd he not? Is he not oblig'd to't? Suppoſe he gives Evidence according to the Truth, he would be entitled as much to his Pardon, as if he gave Evidence of that which is not true. The moſt you can ſay is, he has a Promiſe of Pardon if he gives Evidence; and can you conclude from thence that he can give no Evidence except a falſe Evidence? If they who ask the Queſtion inſinuate any thing like that, it ought not to have an Anſwer: But if he hath a Promiſe of Pardon if he gives a true Evidence, it is no Objection to his being a Witneſs, or to his Credit.

Priſoner. My Lord, I humbly hope our Objections will thus far prevail, and that we ſhall come at the Fact.

Ld. Ch. Jus. When he is ſworn you ſhall ask him what Queſtions you pleaſe.

Mr. *Jus. Eyre.* The Objection which gives Occaſion to inſiſt upon this Queſtion, ariſes from the Influence which the Hopes of Pardon may poſſibly have upon the Witneſs; and if this be a Reaſon for ſetting aſide a Witneſs as incapable, no Accomplice who diſcovers a Conſpiracy can ever be allow'd to prove it

upon Oath, for I believe, no Man ever yet made a Diſcovery but with the Hopes of Pardon; and a Government is oblig'd in Honour to grant it, where the Confeſſion appears to be ingenuous and ſincere: And therefore if the Hope or Proſpect of Pardon, which is all that can be inferr'd from a Promiſe, ſhould be an Objection to the Competency of a Witneſs, no Government would be ſafe; for Treaſonable Conſpiracies might be form'd and carry'd on with Impunity, when the Perſons concern'd, from whom alone a full Diſcovery can be had, are utterly incapable of proving the Fact, though they give all poſſible Marks of their Sincerity and Truth. They have therefore been always allow'd to be Witneſſes; and I don't remember that ever any Objection was made to their Competency, till the Caſe of the King and *Gordon*, when the Counſel for the Priſoner would have ask'd the ſame Queſtion which is now propoſed, but the Court did not think it proper before the Witneſs was ſworn; for no Perſon produced as a Witneſs can be examin'd to any Matter which only affects his Credit, and is no Objection to his Competency, till after he is ſworn to give Evidence, and has been examin'd.

Mr. *Jus. Powys.* Mr. *Hungerford* would do well to remember the ſeveral Acts of Parliament made to give Encouragement by a Reward of Forty Pounds for the apprehending and convicting of every falſe Coiner, Highwayman and Houſe-breaker; and if a Criminal in thoſe Offences ſhall come in, and diſcover and convict two of his Accomplices, he ſhall be entitled to a Pardon; and by the expreſs Words of the 5th of Queen *Anne*, ſhall have the Reward of Forty Pounds for each Houſe-breaker, and ſhall alſo himſelf be entitled to a Pardon; ſo that the Parliament thought it proper to give even Money as well as a Pardon to ſuch Diſcoverer. Yet ever ſince the making of thoſe Acts, the Perſons ſo promiſed and encouraged, have upon thoſe Tryals been admitted as good Witneſſes even before a Pardon. And indeed there cannot be too great Encouragement given to Criminals to become honeſt, and to come in and impeach their Accomplices, it being often impoſſible fully to diſcover thoſe ſecret Confederacies, but by ſome of the Accomplices and Actors therein.

The Law thinks theſe are fit Witneſſes, and you will find it in the Book that Mr. *Ketelbey* hath mentioned that they were thought fit to make Diſcoveries of thoſe ſecret Combinations, I don't ſay to come in and give falſe Evidence, but to make a fair Diſcovery.

Mr. *Hungerford.* My Lord, We ſubmit; we ſhall ask the Queſtion whether he hath had any ſuch Promiſe made, let the Truth come out, and we ſhall be ſatisfied.

Mr. *Jus. Forteſcue Aland.* I was Counſel in the Caſe of the King and *Gordon*, and I very well remember the Counſel of the other Side inſiſted the Witneſs produc'd ſhould be ask'd this Queſtion on a *Voyer dire*, his Name was *Mayer*. The Reaſon the Court gave that it was improper to ask this Queſtion on a *Voyer dire*, was, that if he had this Promiſe, ſuch Promiſe was made either to ſpeak the Truth, or to ſpeak a Falſhood; if it was to give a juſt and true Evidence, there was no Harm in it; and if it was a Promiſe of Pardon for ſpeaking that which was not true, the Witneſs was not bound to anſwer that Queſtion, and conſequently it can be of no Uſe whatſoever, therefore the Witneſs muſt be ſworn.

Mr. *Stephen Lynch* was ſworn.

Mr. *Soll. Gen.* Do you know the Priſoner at the Bar?

Lynch. Yes.

Mr. *Sol. Gen.* How long have you known him?

Lynch. I firſt knew him about the Month of *June* laſt.

Mr. *Soll. Gen.* Pray give an Account to the Court and the Jury by what Means you firſt became acquainted with him.

Lynch. I became acquainted with him by Dr. *Murphey:* About the Month of *April* laſt I came into *England* from *Flanders*, at my Arrival in *England* I met with Dr. *Murphey*, that was my Acquaintance ſeveral Years before, who met me and told me he had ſome particular Buſineſs to tell me, and deſired me to meet him at *Cooper*'s Coffee-houſe in *Cornhill*, where I met him; and he told me that material Things were acting in the Kingdom in order to a Riſing, and if I would be of the Party, he would recommend me to a Gentleman that had the Management of it: I ask'd Time to conſider of it, and in two or three Days time I told him that I was reſolv'd to be of the Party. I frequently told him I was impatient to know

who the Gentleman was that I was to be recommended to; about the Month of *June* he told me I ſhould go with him to his Lodgings, which were at the upper End of *Chancery-Lane*, right over againſt the *White-Hart*.

Mr. *Soll. Gen.* Whoſe Lodgings did you go to?

Lynch. The Lodgings of Mr. *Layer:* Mr. *Layer* was at home, and deſir'd us to go to the *Gryffin* Tavern in *Holborn* and he would meet us there; we went, and in a little while Mr. *Layer* came to us, and then Dr. *Murphey* told him that I was the Gentleman he had ſpoke to him of. Mr. *Layer* was glad of my Acquaintance, and told me that he had had ſuch a ſtrong Recommendation of me, that he was fully ſatisfyed in me; and then he held a Diſcourſe about a Riſing that was to be in the Kingdom in favour of the Pretender, and that it would be back'd by a great many of the Army and the Guards, and ſeveral other Gentlemen.

Mr. *Hungerford.* The Overt Act is laid in *Eſſex*, and here is an Evidence given of an Overt Act in *Middleſex*; with Submiſſion they can give no Evidence of an Overt Act in another County, till they give Evidence of an Overt Act in *Eſſex*, where the Indictment is laid.

Ld. Ch. Jus. All they ſay of Matters in the County of *Middleſex*, unleſs they give Evidence of Overt Acts in the County of *Eſſex*, it ſignifies nothing.

Mr. *Hungerford.* My Lord, with Submiſſion they ought not to be ſuffer'd to give Evidence of any Overt Act in *Middleſex*, before they give Evidence of ſome Overt Act in *Eſſex*; for the proving ſome Overt Act in *Eſſex* is the only Thing which can entitle them to prove any Overt Act elſewhere. For by the Method they would go on in, the Jury may be captivated with a Story of the *Gryffin* Tavern, and of Mr. *Layer*'s other Aſſignations and Actions in *Middleſex*, which cannot be imputed to him upon this Indictment until ſome Treaſon be proved in *Eſſex*: I hope therefore the King's Counſel ſhall receive your Lordſhip's Directions to go on regularly, to begin to give an Account of the Overt Acts in *Eſſex*, before they go into another County.

Ld. Ch. Jus. Mr. *Hungerford*, you muſt give them leave to go on in their own Method, of that that firſt happen'd in *Middleſex*, and afterwards of what happen'd in *Eſſex*; and if you dare not truſt them and us, but will have your own Method, it would be to put us into Confuſion.

Mr. *Soll. Gen.* My Lord, we inſiſt upon it in point of Law, that we are intitled to give Evidence of Overt Acts of the ſame Species of Treaſon laid in the Indictment, though done in any County in *England*, provided we alſo prove an Overt Act in the County of *Eſſex*; which we muſt do, otherwiſe this will paſs for nothing. Mr. *Lynch*, go on, and give my Lord and the Jury an Account of what Mr. *Layer* ſaid, when you were together at the *Griffin* Tavern.

Lynch. The firſt thing he told me was, that he was very glad to meet me, that he had had a good Recommendation of me from Dr. *Murphey*, as being a Man he could confide in; and beginning his Diſcourſe of an Inſurrection in the Kingdom, he told me, that they were back'd with a great many of the Army and the Guards; that there was a great many of the Nobility and Gentry of the Country that would come in to 'em: He told me then, that he wanted a Man of Reſolution that would take upon him the ſeizing of ſome Perſon of Note, as a General, or ſome other great Man. The Diſcourſe run all upon the ſame thing.

Mr. *Soll. Gen.* Recollect as well as you can, the Particulars Mr. *Layer* told you relating to this Deſign.

Lynch. He told me the general Deſign of the Revolution in the Kingdom, in favour of the Pretender, and that they were back'd by a great many of the Army, and a great many of the Nobility and Gentry; and then he told me he wanted a Man of Reſolution, to undertake with ſome others, to ſeize a great Man, as a General or ſome other great Man: At that Time I took upon my ſelf to do it, ſo at that time we diſcours'd no more.

Mr. *Soll. Gen.* How long were you together?

Lynch. About half an Hour.

Mr. *Soll. Gen.* When had you the next Meeting?

Lynch. A Day or two afterwards.

Mr. *Soll. Gen.* At what Place?

Lynch. At the ſame Tavern, the *Griffin* Tavern; when I came there I ſent a Boy for Mr. *Layer*, as he had ordered me to do when I wanted to ſee him.

Ld. Ch. Jus. When was your firſt Meeting?

Lynch. About the Month of *June*.

Ld. Ch. Jus. And the 2d Meeting was two or three Days after the firſt?

Lynch. Yes, my Lord.

Mr. *Serj. Cheſhyre.* At your parting after the firſt Meeting, what did Mr. *Layer* ſay to you?

Lynch. Mr. *Layer* told me, if I had occaſion to ſpeak to him that I ſhou'd not come to his Lodgings, but go to a Tavern and ſend for him, which I did; I ſent a Boy for him, and he came to me. Then talking over a Glaſs of Wine, he told me that he had pitched upon me to ſeize the Earl of *Cadogan*, and that I ſhou'd chuſe as many Perſons as I thought fit who wou'd anſwer the ſame Deſign; and he being the principal Man in the Army, it wou'd diſcourage the King's Party, and animate the Pretender's Party; which as I ſaid before, I agreed to undertake, and to do the utmoſt of my Endeavours to do it.

Mr. *Serj. Pengelly.* Was you to do it alone, or was you to have any Aſſiſtance?

Lynch. Yes, I was to have Aſſiſtance.

Mr. *Serj. Pengelly.* What Aſſiſtance?

Lynch. Such that I ſhou'd chuſe, ſuch People that I cou'd confide in.

Mr. *Soll. Gen.* Did you undertake it?

Lynch. Yes, I did undertake it, and to pitch upon ſuch Perſons as ſhou'd be proper to aſſiſt me in it.

Mr. *Soll. Gen.* Was any thing ſaid at that time relating to any Perſon, who was to have the Conduct of the Deſign?

Lynch. He told me that there was ſome great Man that did not want Wit, Courage or Reſolution, and was at the head of this Affair, who wou'd at a proper time give me an Order to effect ſomething further about it.

Mr. *Soll. Gen.* Had you any more Diſcourſe with the Priſoner about this Affair?

Lynch. Yes, we had ſeveral Diſcourſes about it.

Mr. *Att. Gen.* Tell my Lord and the Jury what more Diſcourſe you had, if you can remember.

Lynch. The chief Part I was to act was to ſeize the Earl of *Cadogan*, with ſuch Gentlemen as I ſhould think proper to anſwer the end of ſeizing him.

Mr. *Serj. Cheſhyre.* Was there any other Meeting, and when and how long after?

Lynch. After that I came to a Tavern in *Holbourn*.

Mr. *Serj. Cheſhyre.* How long after?

Lynch. Some few Days; it was at the *Caſtle* Tavern in *Holbourn*.

Mr. *Att. Gen.* Who was with you at that Tavern?

Lynch. I came to the Tavern and ſent for Mr. *Layer*.

Mr. *Att. Gen.* Did he come to you?

Lynch. Yes, he came to me.

Mr. *Att. Gen.* What Diſcourſe had you with him at that time?

Lynch. We had no particular Diſcourſe, but in general we talk'd about the Uneaſineſs of the Nation, and the fair Opportunity there was to riſe.

Mr. *Att. Gen.* Pray give an Account of what elſe paſs'd.

Lynch. I ſay, the ſame Diſcourſe that we had had at two Meetings before, he repeated, and ſaid, now is a fair Opportunity, the Uneaſineſs of the People being ſuch, to bring about a Revolution, ſince they would be back'd by the Army and the Guards, and ſeveral other People. Soon after that we parted.

Mr. *Serj. Cheſhyre.* When had you any other Meeting?

Lynch. Some Meetings we had at Mr. *Layer*'s Houſe in *Southampton-Buildings*.

Mr. *Serj. Cheſhyre.* How long after?

Lynch. A few Days only.

Mr. *Serj. Cheſhyre.* At the ſeveral Meetings at his Houſe, what was the Subject of your Diſcourſe?

Lynch. It was always upon the ſame, about the Riſing and Uneaſineſs of the People, and the fair Opportunity of bringing about a Revolution, of the Diſpoſition of the Army and the Guards.

Mr. *Serj.*

Mr. *Serj. Chesſhyre.* Did he give you any Encouragement?

Lynch. After I met him at his Houſe in *Southampton-buildings*, I told him of my Uneaſineſs; becauſe he had told me at the beginning, that theſe Things would be ſoon put in Execution: I told him, if they were delayed, I was afraid they wou'd not ſucceed. He then animated me, by telling me that there was no fear of its ſucceeding; and that I ſhould not be diſcouraged, for there was a Great Man, a Man of Wit and Conduct, that was at the Helm, and that had the Management of the Scheme: That I ſhould always keep a good Heart; and that Things went on very well.

Mr. *Weſt.* Did he tell you in whoſe Favour this was to be?

Lynch. Yes; in Favour of the Pretender. He mentioned him by the Name of King.

Mr. *Serj. Chesſhyre.* Do you know any thing about his going into the Country?

Lynch. After I met him at his Houſe, he went into the Country, and ſtaid ſixteen or ſeventeen Days; at his Return, I went to ſee him, and expreſſing how uneaſy I was about the Delay.

Mr. *Serj. Pengelly.* About what Time was this?

Lynch. I believe it was in *July*. And then I told him again how uneaſy I was at the Delay. To which he anſwer'd, Keep a good Heart, all Things go on very well.

Mr. *Serj. Chesſhyre.* Had you any Apprehenſions that all was to be done at home, or that you was to have any foreign Aſſiſtance?

Lynch. In my Diſcourſe to him of the Uneaſineſs I was under at the Delay, I aſked him if he had any Promiſe of any Succour from any Power Abroad? He told me, if we once made a Beginning, we ſhould not want them: But did inſinuate, that we ſhould not want Encouragement from the Court of *France*.

Mr. *Att. Gen.* When you expreſſed your Uneaſineſs at the Delay, what did he ſay to encourage you?

Lynch. The reaſon he told me was, that Things went on very well, and would very ſoon be put in Execution.

Mr. *Att. Gen.* In what manner did you expreſs your Uneaſineſs?

Lynch. Nothing but that I was uneaſy, and I was afraid that Things did go wrong.

Mr. *Soll. Gen.* What did you ſay, did you ſay any thing relating to your own Circumſtances?

Lynch. In the Beginning I told Dr. *Murphey*, becauſe it would be a long while, ſome five or ſix Weeks, before I was to be introduced to Mr. *Layer*'s Company, that I came on my own particular Buſineſs, and my Circumſtances would not permit me to be long here at my own Expence. At the meeting with Mr. *Layer*, when I firſt made this Complaint to him, Mr. *Layer* told me I ſhould not want for a ſmall Matter, to maintain me in *England*. Accordingly Mr. *Layer* gave me ſome Money.

Mr. *Att. Gen.* Do you remember how much that was?

Lynch. I cannot remember.

Mr. *Att. Gen.* Did he give you Money at any other Time?

Lynch. Mr. *Layer* gave me ſome Money the firſt Time, and afterwards he ſent me ſome Money by Dr. *Murphey*.

Mr. *Serj. Pengelly.* Did he give you any Money at any other Time?

Lynch. Yes, the laſt Time I was with him I had more.

Mr. *Att. Gen.* How many Times had you Money of him?

Lynch. Five or ſix Times.

Mr. *Att. Gen.* Do you know what the Sums did amount to together?

Lynch. I can't recollect; but I believe about eight or ten Guineas.

Mr. *Att. Gen.* What was it given you for?

Lynch. To keep me in *England*, and to aſſiſt in the intended Deſign of a Revolution.

Mr. *Serj. Pengelly.* After you went to him, upon his Return out of the Country, do you remember the Diſcourſe that paſs'd between you then?

Lynch. Yes: After I came to his Houſe, I expreſſed my Uneaſineſs at the Delay: Upon which he encouraged me, giving me to hope that Things went on very well, and our Deſign would effectually take Place.

Mr. *Serj. Pengelly.* Did you aſk him any thing about the Army?

Lynch. I aſked him if he had any Encouragement from the Guards and the Army? He told me, Yes, he had; that a great many of the Officers would not engage themſelves now, being well paid; but he ſaid he had ſpoke with ſeveral Officers of the Guards, who had aſſured him, that moſt of the common Soldiers would come in, as ſoon as we made a Beginning.

Mr. *Serj. Pengelly.* Did he mention any thing of the Time?

Ld. Ch. Juſt. When you aſked him if he had any Encouragement from the Army, what did he ſay?

Lynch. He told me, That he had Encouragement from a great many of the Officers of the Army: That he had diſcourſed with ſeveral Serjeants of the Guards, who told him that the common Soldiers would be glad, after they had made a Beginning, to come in to 'em.

Ld. Ch. Juſt. Did he give you any Reaſon for this?

Lynch. Mr. *Layer* told me, the Serjeants told him ſo before they were encamped, and complained of their ill Uſage, and hard Uſage from the ſubaltern Officers.

Mr. *Serj. Pengelly.* Was you acquainted with any Time, or Day that was fixed?

Lynch. There was no fix'd Time: Mr. *Layer* told me, it was to be on the riſing of the Camp; becauſe they could not talk with the Soldiers ſo well, while they were encamped, as they could afterwards, when they were in their Quarters.

Mr. *Serj. Cheſhyre.* Was there any Conſultation of viewing any one's Houſe?

Lynch. Afterwards, in Diſcourſe he told me, that it was fit to go and view the Earl of *Cadogan*'s Houſe; in caſe it was neceſſary to ſeize the ſaid Lord in his Houſe.

Mr. *Serj. Cheſhyre* Where is his Houſe?

Lynch. In *Pickadilly*. Accordingly we appointed a Day to go; and I came to his Lodgings, and we took Coach, and away we went; and talking to him about it, he told me, he was very well acquainted with my Lord *Cadogan*, and had ſome Buſineſs with him, about an Eſtate which his Lordſhip was about buying: We went to his Houſe, but my Lord was not to be ſpoke with, or was not within, I don't remember which, but we were conducted into his Houſe; we view'd the inner Part of the Houſe, afterwards we went into the Garden, we viewed the lower Part of the Garden, then we went out in the Yard, and took a View of the Avenues round about the Houſe. I don't remember exactly the Time, but it was that Day that a Soldier ſhould have been ſhot in *Hyde-Park*.

Mr. *Serj. Cheſhyre.* Had you any Diſcourſe about the Feaſibleneſs of it?

Lynch. Yes, that it was eaſy to be done; if we had but ſome reſolute Gentlemen to ſtand by us, that it was very feaſible to be done.

Mr. *Serj. Cheſhyre.* Had you any Talk at that Time relating to the *Tower*?

Lynch. He told me, the *Tower* would be immediately ſurrender'd to the Party; on the Day the Plot was to be put in Execution, a certain Officer of the Guards would take upon him to mount the Guards there, who would facilitate the Delivery of the *Tower* to them.

Mr. *Serj. Cheſhyre.* Was there any Talk of the Mint?

Lynch. Yes, afterwards: He ſaid there would be no doubt of the Mint; they would be glad to take the Opportunity to ſhake off their Confinement: And that they would put Arms into their Hands, according as they repaired to their Party.

Mr. *Att. Gen.* When did you ſee the Priſoner next after the Time that you ſpeak of, of viewing my Lord *Cadogan*'s Houſe?

Lynch. I ſaw him at his own Houſe, and at ſeveral Taverns in the City; and once he wrote to me, deſiring me to come to his Lodging; accordingly I went, and when I came to his Houſe, I met with a little Paper that was left for me, directing me to go to the *Queen's-head* Tavern in *Great Queen's-ſtreet*, near *Lincoln's-Inn-Fields*, and to enquire there for one Mr. *Wilſon*; which I did, and I was conducted into a Room where they ſaid Mr. *Wilſon* was, with Mr. *Layer*, and another Man, who ſeem'd, by his Clothes, to be a Serjeant of the Guards. I do not know the Man.

Mr. *Att. Gen.* What paſs'd then?

Lynch. We ſtaid a little while there, we talk'd over the Buſineſs, and drank good Succeſs to the Enterprize.

Mr.

Mr. *Serj. Cheſhyre.* Your Lordſhip will pleaſe to take notice, That when he went to Mr. *Layer*'s Lodging, he found a Letter there, directing him to go to the *Queen's-Head-Tavern*, and enquire for one *Wilſon*; that when he came there, *Wilſon* was there, and Mr. *Layer* and another Man.

Mr. *Serj. Pengelly.* What paſſed at that Time?

Lynch. Nothing material.

Mr. *Att. Gen.* You talk'd about drinking good Succeſs to the Enterprize: Who drank that?

Lynch. We all drank that.

Mr. *Att. Gen.* Did the Priſoner at the Bar drink it?

Lynch. Yes, he did. I told the Priſoner, when he went out, that I was mighty uneaſy at the Delay of this Affair. He told me, I need not be uneaſy, for every Thing went on well; and they had a Nobleman at the Helm, who had Authority from the Pretender, and would loſe no Opportunity when a fit Time offered.

Mr. *Serj. Pengelly.* What did he call the Pretender?

Lynch. He called him the King. I was uneaſy at the Delay, for fear of being diſcover'd.

Ld. Ch. Juſt. What Reaſon did he give you, why you ſhould not be uneaſy?

Lynch. Becauſe their Deſigns were quickly to be put in Execution; and there was a Nobleman at the Helm who would put the Deſign in Execution, as having full Power and Authority from the King to act as he thought proper.

Ld. Ch. Juſt. Did you aſk who that Nobleman was?

Lynch. Yes; but he never told me his Name, but ſaid, that I ſhould, in a proper Time, be preſented to him, and receive my Commiſſion and Orders from him to ſeize my Lord *Cadogan.*

Mr. *Serj. Pengelly.* My Lord, we ſhall now gratify the Priſoner's Counſel, with an Account of what happened in *Eſſex*; I hope they will not be impatient to hear that: Therefore, pray acquaint my Lord, and the Jury, when you went out of Town with Mr. *Layer.*

Lynch. My Lord, I was at Mr. *Layer*'s Houſe the Day when the Biſhop of *Rocheſter* was ſent to the *Tower*; he aſk'd me, if I would ride abroad with him the next Day to take the Air; I conſented to it, and came the next Morning to his Houſe; and Mr. *Layer* aſked me, if I mounted with Furniture: I told him no; but that I had a double Barrel Fowling-piece, which if his Servant would carry, would do as well. He then deſired me to go and ſtay for him without *Aldgate*, and get my Gun ready loaden, for he had that about him which he would not loſe for any thing in the World. I went and ſtaid till about ten or eleven a Clock, when Mr. *Layer* met me, and gave the Gun to his Servant to carry. On the Road he told me, we were going to my Lord *North* and *Gray*'s, whom he was very well acquainted with, and that he would recommend me to him as a Friend of his. When we got to the *Green Man*, he told me, we had better go in and dine there, becauſe Dinner-time would be over before we could get to my Lord *North* and *Gray*'s. Whilſt Dinner was getting ready, we had ſeveral Diſcourſes on the ſame Subject, of the Uneaſineſs of the Nation, and its Inclination to a Revolution, and how to bring it about; upon which, he pulled a Paper out of his Pocket, and gave it me to read the latter Part of it.

Mr. *Serj. Pengelly.* Can you remember what it contained?

Lynch. I remember ſome Lines of it; which was, in general, to invite the Nation to an Inſurrection, and to ſhake off the Calamities and Miſeries they endured under the preſent Miniſtry. And it was mentioned in the ſaid Paper, that the Earl of *Cadogan* was actually in their Cuſtody; thereby encouraging the Army to revolt, with an Offer of three Guineas to every Horſeman and Serjeant, and two Guineas to every Corporal, and one Guinea to every common Soldier, to be paid immediately on their joining the Party, and a Promiſe of farther Preferment.

Mr. *Att. Gen.* Did you read this?

Lynch. I did, out of the Paper in Mr. *Layer*'s Hand.

Mr. *Att. Gen.* Do you know whoſe Hand-writing it was?

Lynch. According to our Diſcourſe, I thought it might be his writing.

Ld. Ch. Juſt. But he produced it?

Lynch. Yes, my Lord, he produced it.

Ld. Ch. Juſt.

Ld. Ch. Juſt. You ſay you imagine, from ſome Diſcourſe between you, that it was his Hand-writing; what Reaſon was there, in all his Diſcourſe, that induced you to think ſo?

Lynch. He talk'd of it as being of his own making; beſides, there were ſeveral Interliniations, Daſhings-out, and Interliniations afterwards. He was very well ſatisfied and eaſy as to me, and ſaid, he could wiſh that he could bring Matters about ſo, as that I could have the ſole Direction of ſeizing ſome of the Miniſtry, and namely, my Lord *Townſhend*, my Lord *Carteret*, and Mr. *Walpole*.

Mr. *Att. Gen.* Was there any Diſcourſe about ſeizing the King?

Lynch. He ſaid, when the Deſign was put in Execution, the Army would declare in their Favour, and they would ſend a ſtrong Guard to take care of the King's Perſon.

Mr. *Att. Gen.* How to take care of the King's Perſon? What was you to do?

Lynch. Nothing but to ſecure the King's Perſon; by what he told me, it was for the Publick Good of the Kingdom; that they did not mean, nor had they any Deſign on the King's Perſon, but only to keep him in Security from any Inſult.

Mr. *Att. Gen.* What more paſſed at that Time?

Lynch. Nothing more in particular.

Mr. *Att. Gen.* Had you any talk relating to the Army?

Lynch. I ſaid before what related to the Army.

Mr. *Serj. Pengelly.* Was there any Diſcourſe about a Scheme or Plan?

Lynch. He told me there was a Scheme laid on that Foot, of which I told you the firſt Step was to ſeize the Earl of *Cadogan*, and then, according as the Army came over, to take care and ſeize the King's Perſon; and he thought the proper Time to put this in Execution, would be at the Riſing of the Camp in *Hyde-Park*.

Mr. *Serj. Pengelly.* Was there any Objection made to this?

Lynch. No; I made no Objection, only ſhew'd my Uneaſineſs at the long Delay.

Mr. *Serj. Pengelly.* When you ſo expreſs'd your Uneaſineſs, what did he ſay?

Lynch. He told me, if I could think or propoſe any Thing more proper, that I ſhould do it. After that we rode toward *Epping*, and went to my Lord *North* and *Gray*'s; and there Mr. *Layer* introduced me as his Friend. We ſtaid there all Night, and dined there the next Day. In the Evening we came away in Company with another Gentleman that I did not know; but we talk'd on the Road about the Situation of my Lord's Houſe; and Mr. *Layer* told me, he had recommended me to his Lordſhip, as his particular Friend, and aſk'd me how I liked him.

Mr. *Serj. Pengelly.* Did he aſk you any Queſtions? Do you remember what he called his Lordſhip?

Lynch. I don't remember any other Name but *My Lord*.

Mr. *Serj. Pengelly.* When he aſk'd your Opinion of him, and how you liked him, did he deſcribe him in any other manner, or only called him *My Lord?*

Lynch. He only called him my Lord *North* and *Gray*; he only aſk'd me how I liked my Lord *North* and *Gray*.

Mr. *Serj. Pengelly.* Liked his Lordſhip, for what?

Lynch. That was all.

Mr. *Reeve.* Had you any Talk with him about the Perſon that was to have the chief Command?

Lynch. Yes; but he never named the Perſon.

Mr. *Weſt.* Had you never any Diſcourſe who was to command the Party that was to ſeize my Lord *Cadogan?*

Lynch. I was to command that Party.

Mr. *Weſt.* Was you any other time at my Lord *North* and *Gray*'s?

Lynch. Yes; another time I went to my Lord *North* and *Gray*'s, where I found Mr. *Layer*, and expreſs'd to Mr. *Layer* the Uneaſineſs I was in at the long Delay, and that I was afraid our Hopes would vaniſh; and told him, if things were not ſoon put in Execution, I would withdraw my ſelf. Mr. *Layer* bid me not be uneaſy, Things might perhaps be ſooner put in Execution than I imagined.

Mr. *Weſt.* Where was this?

Lynch. At *Epping*, at my Lord *North* and *Gray*'s.

Mr. *Weſt.* Did you come home together?

Lynch. No; I came home that Night: Mr. *Layer* remained there.

Mr.

Mr. *Serj. Pengelly.* Did you ſee him ſome time afterwards?

Lynch. I met him at his own Houſe, where I expreſſing my Uneaſineſs as formerly, he ſaid, I ſhould not be uneaſy, for Things would ſoon take effect; and bid me get my ſelf ready to execute my Deſign, becauſe they had Notice the Camp would ſoon break up, which was the Time deſigned to put Things in Execution; and at another Time he told me, that the Declaration which he had ſhewn me at the *Green Man*, had mentioned no particular Perſons, but in general the Safety and Publick Good of the Kingdom: There was nothing mentioned of the Pretender in it, but that he had thought fit to put it now in the Pretender's Name.

Mr. *Serj. Pengelly.* Who was you to receive your particular Orders from, for the executing your Deſign?

Lynch. From that Nobleman, who was to act as General in this Affair.

Mr. *Serj. Pengelly.* Did you never hear from Mr. *Layer* who that was?

Lynch, No; I don't recollect he was ever named by Mr. *Layer*; he told me, that the Declaration was afterwards put in the Name of the Pretender.

Mr. *Serj. Pengelly.* What was it he recommended you to my Lord *North* and *Gray* for?

Lynch. He recommended me to him as one of his particular Friends.

Mr. *Serj. Pengelly.* What Diſcourſe had you at that Time?

Lynch. We talk'd indifferently; we diſcours'd nothing of the Revolution at that Time: He told me he had given the Declaration to a Nonjuring-Miniſter to get printed, and had given twenty Guineas for that Purpoſe.

Mr. *Soll. Gen.* Was you acquainted before with my Lord *North* and *Gray?*

Lynch. No; he introduced me as one of his Friends.

Mr. *Serj. Cheſhyre.* Did you know when Mr. *Layer* was firſt taken up?

Lynch. Yes.

Mr. *Serj. Cheſhyre.* How long before that had you been with him?

Lynch. I can't recollect the Time. I firſt became acquainted with Mr. *Layer* about *June.*

Mr. *Serj. Cheſhyre.* What paſſed the laſt time you was with him, before he was taken up; was there any particular Conference between you?

Lynch. I told you about the Declaration, and about my Uneaſineſs, and that he told me Things would ſucceed ſooner than I thought for.

Mr. *Serj. Cheſhyre.* When you expreſs'd your Uneaſineſs, did he uſe any Vehemence of Expreſſion, as to what Part he would act?

Lynch. He told me ſeveral times, when I was ſo irreſolute and uneaſy, ſaith he, don't you be uneaſy; rather than all ſhould fail, I will ſtir up and be a ſecond *Maſſinello.*

Mr. *Weſt.* Had you any Converſation about the taking up of any Perſon?

Lynch. He only told me at that Time, that if the Nobleman at the Head of Affairs ſhould be taken up, every thing would be quaſh'd.

Mr. *Serj. Pengelly.* That Nobleman was not taken up at that Time then?

Lynch. No.

Mr. *Serj. Pengelly.* What Recommendation had you to my Lord *North* and *Gray?*

Lynch. Only as a Friend of Mr. *Layer*'s, to paſs away the Time in Summer.

Mr. *Hungerford.* I preſume they have done with giving the Evidence, which they intend, of any Overt-Act in the County of *Eſſex*; if they have, I would crave the Liberty to obſerve.

Mr. *Serj. Pengelly.* We have not done; if you have any thing to obſerve, it muſt be when we have gone thro' our Evidence.

L. Ch. Juſ. When they have given all their Evidence, then will be your proper time to object to the Evidence, and to ſhew whether 'tis competent, or no.

Mr. *Hungerford.* I do not preſs to make any Remarks upon their whole Evidence; but if they have given all the Evidence they intend to give of any Overt-Act in *Eſſex*, for on that depends the Fate of this Gentleman at the Bar, I hope we are now (before they ſhall be permitted to give Evidence of any farther Overt-Act of Treaſon in another County) at Liberty to object, that the Tranſaction in *Eſſex* is not an Overt-Act at all of the High-Treaſon laid in this Indictment.

Mr. *Soll. Gen.* We have not done. When we have given our Evidence, then it will be proper for them to make their Objections to the Whole.

Mr. *Hungerford.* I humbly offer it to your Lordſhip's Conſideration, whether it is right and proper to go on in ſuch a Method, and to take up the Time of the Court, when the Gentlemen on the other Side ſay, they have done with giving Evidence as to any Overt-Act in the County of *Eſſex*.

Mr. *Soll. Gen.* No; we have not done with that Evidence.

Mr. *Ketelbey.* I don't know whether your Lordſhip will indulge us to aſk the Witneſs a Queſtion or two now.

L. Ch. Jus. Propoſe your Queſtions, and we will tell you.

Mr. *Ketelbey.* Whether he hath any Offer of Pardon propos'd to him to induce him to give Evidence againſt the Priſoner at the Bar; which if he hath, we apprehend will invalidate his Evidence.

Lynch. No, Sir; I have no Promiſe of Pardon at all: I only do this out of Juſtice, to make what Reparation I can, and to ſave the Blood of many People.

Mr. *Ketelbey.* I beg Leave to aſk him a few more Queſtions. I think you ſay the firſt time you were introduced into this Gentleman's Company, the Priſoner at the Bar was at the *Griffin-Tavern* in *Holborn*, and that he then told you he had great Deſigns in hand; and that there was an Inſurrection deſign'd, and they wanted a Perſon of Reſolution to ſeize a General: This, you ſay, was the firſt Time that ever you ſaw the Priſoner at the Bar. How came you to have that Share of Confidence in a Man that you never ſaw before?

Lynch. I told you I was in Diſcourſe with Dr. *Murphey* a great many Days and Weeks before I ſaw Mr. *Layer*; I told you how every Day I ſaw him, and always diſcours'd about the Inſurrection, and how he told me then that he would recommend me to a Man that had the Management of the greateſt Part in this Affair; and I aſk'd every Day when I ſhould be introduced to him: He told me, the Time was not come yet; but when it was a proper time, he would introduce me.

Mr. *Ketelbey.* I think you give that for a Reaſon, why you had that Confidence in him, becauſe you had been recommended by one Dr. *Murphey*. How came you to have that mighty Dependance on Dr. *Murphey?*

Lynch. Becauſe Dr. *Murphey* and I had been acquainted ſeveral Years ago.

Mr. *Ketelbey.* I hope you was not in any wicked Deſign with Dr. *Murphey*, and ſo much acquainted, as to recommend you in a Caſe of Treaſon.

Lynch. There was a common Friendſhip between us.

Mr. *Ketelbey.* How came he to truſt you? Would you have truſted him in a Buſineſs of Treaſon?

Lynch. We have been concerned in Affairs together.

Mr. *Ketelbey.* How long was you at the *Green Man* with Mr. *Layer?*

Lynch. I can't ſay exactly the Time.

Mr. *Ketelbey.* I don't aſk you exactly to a Minute or two; but was you there an Hour, or two, or three Hours?

Lynch. I can't ſay whether we were there an Hour or two; but we had ſomething dreſs'd for Dinner, and the Matter was diſcours'd of by us before Dinner.

Mr. *Ketelbey.* When you firſt alighted from your Horſes, what Room was you ſhewn into?

Lynch. We were ſhewn into a Room up one Pair of Stairs on the right-hand, the firſt Room?

Mr. *Ketelbey.* Was it towards the Street, or backwards?

Lynch. It look'd into the common Road.

Mr. *Ketelbey.* Did you look out of the Window and ſee a Perſon of your Acquaintance?

Lynch. I ſaw two Gentlemen, but did not know them.

Mr. *Ketelbey.* Did not you look out of the Window, and ſay, you ſaw a Gentleman of your Acquaintance?

Lynch. I ſaid I ſaw two Gentlemen that I thought I had ſeen before.

Mr. *Ketelbey.* Did not you go down to thoſe Gentlemen?

Lynch. No; I did not go down to them.

Mr. *Ketelbey.* Did not you go down to them?

Lynch. No.

Mr.

Mr. *Ketelbey*. Did not you ſay ſo to Mr. *Layer*, in the Drawer's Preſence?

Lynch. No.

Priſoner. Did not you tell me that thoſe Gentlemen were your Acquaintance?

Lynch. I told you, thoſe two Gentlemen I had ſeen before.

Priſoner. How long were we together at the *Green-Man?* Were the Horſes put up, or not?

Lynch. I can't tell.

Priſoner. Was there any thing dreſs'd for our Dinner but a Beef-ſtake?

Lynch. No, nothing elſe.

Priſoner. Did not you go down Stairs, pretending you went to thoſe Gentlemen?

Lynch. No, I did not tell you I went to thoſe Gentlemen.

Priſoner. Did you not go down Stairs?

Lynch. Yes, I did; and came up again immediately.

Priſoner. Was not Dinner on Table when you came up again?

Lynch. I went down twice before Dinner.

Priſoner. Then you muſt conſequently leave me in the Room.

Lynch. I went down to make Water.

Priſoner. What did yo go down the ſecond time for?

Lynch. Out of Curioſity.

Priſoner. How long did you ſtay?

Lynch. Not both times above two Minutes.

Priſoner. I was then alone, when you went down?

Lynch. Yes.

Priſoner. Was this Diſcourſe before or after Dinner?

Lynch. It was before Dinner.

Priſoner. When you came up the ſecond Time, was not Dinner on the Table?

Lynch. It was come up.

Priſoner. And yet the Diſcourſe we had was before Dinner?

Lynch. Yes, it was before Dinner.

Priſoner. How much Time might we ſpend before Dinner, half an Hour, or an Hour?

Lynch. I don't remember; but it was a good while.

Priſoner. Was not the double Barrel Gun in the Room?

Lynch. I don't know whether it was there, or whether your Servant had it.

Priſoner. At the Time of Dinner, was my Servant, or Drawer, in the Room?

Lynch. Neither of them was in the Room.

Priſoner. You ſay we were a good while, you and I, alone; pray, how long?

Lynch. I cannot ſay poſitively how long.

Mr. *Hungerford*. Have you any Copy of that Part of the Paper he gave to read, and which you read?

Lynch. No.

Mr. *Hungerford*. Was the Whole of it of any Length?

Lynch. To the beſt of my Remembrance, it was a common Sheet of Paper.

Mr. *Hungerford*. Did you read the Whole?

Lynch. No: He doubled it down, and gave me the latter Part of it to read.

Mr. *Ketelbey*. Some Things you ſeem to remember, and ſome Things you don't remember: Was it printed, or written?

Lynch. It was written.

Mr. *Ketelbey*. Did he not mention it to be the Prince of *Orange*'s Declaration?

Lynch. No, he did not.

Priſoner. Was not the Paper blotted?

Lynch. In that I ſaw there were two or three Places interlined.

Mr. *Hungerford*. My Lord, I think the Gentlemen did ſay they had not done with their Evidence, with relation to an Overt-Act in *Eſſex*; if they have not, they will do well to go on now: But we hope they ſhall not go into Overt-Acts committed in any other County, till they make the whole of their Proofs of an Overt-Act in *Eſſex*.

L. Ch. Juſ. You have been told, they ſhould proceed in their own Method, and

and when they have done, you may make what Obſervations may be of Service to your Client.

Mr. *Hungerford.* Relations of Fact ariſing in another County, which have no Relation to the Fact ariſing in *Eſſex*, we hope they ſhall not go into, to amuſe or captivate the Jury, the Court, and the Auditory.

L. Ch. Jus. Sure never any Thing was like this! It is our Province to give Directions, and we think it not proper to interrupt the King's Counſel, but that they ſhould proceed in their own Method: You ſhall be heard as long as you pleaſe, when you come to make your Obſervations.

Mr. *Soll. Gen.* The Priſoner hath a Right to ſay any thing that is proper, to the Court and the Jury, in his Defence, but he muſt ſay it openly; he is not to talk privately with the Jury; though I am ſure they are Gentlemen of ſo great Worth and Honour, as not to be influenced.

Mr. *Att. Gen.* I dare ſay the Jury won't be influenced; but he talks to his Counſel ſo loud, that the Jury may eaſily hear every Word he ſays.

L. Ch. Jus. He muſt not ſpeak ſo loud.

Mr. *Att. Gen.* I juſt now heard him ſay, It was ſtrange to go on with Evidence that would not be to the Purpoſe. I heard him, as I ſate here; let him deny it if he can.

L. Ch. Jus. I hope you will not offer any thing of that Kind, Mr. *Layer*: You have a Right to diſcourſe with your Counſel, but you muſt do it in ſuch a Manner as the Jury may not hear.

Mr. *Hungerford.* Indeed, my Lord, he ſhall have no Encouragement from us for any ſuch Conduct.

Matthew Plunkett ſworn.

Mr. *Serj. Cheſhyre.* Tell my Lord and the Jury, whether you know the Priſoner at the Bar.

Plunkett. Yes, I do know him.

Mr. *Serj. Cheſhyre.* Will you tell my Lord and the Jury, upon what Account, and by whoſe Means, you firſt became acquainted?

Plunkett. One Major *Barnewell* brought me firſt acquainted with Mr. *Layer*; he had an Execution in his Houſe in *Great Queen's-ſtreet*, and this Major *Barnewell* came to me, and deſired me to get a Couple of Grenadiers. I brought him two; we went to Mr. *Layer*'s Houſe, and his Clerk let us in at the Back-door, and the Grenadiers turned the Officers out, and Mr. *Layer* gave them a Crown, and a Glaſs of Brandy.

Mr. *Serj. Cheſhyre.* When was this?

Plunkett. As near as I can gueſs, it is going on of five Years.

Mr. *Serj. Cheſhyre.* Tell my Lord and the Jury, what Month in this laſt Year you renewed the Acquaintance, and who brought you to him?

Plunkett. The next Acquaintance I had afterwards, was by Major *Barnewell*, who was arreſted, and he ſent me with a Letter to his Houſe, to deſire him to relieve him.

Mr. *Serj. Cheſhyre.* Do you know any thing of one *James Plunkett*?

Plunkett. Yes: He came to me from Mr. *Layer*, in *July* laſt, to deſire me to meet him; but how this Counſellor *Layer* and this *James Plunkett* came acquainted I don't know.

Mr. *Serj. Cheſhyre.* What was he?

Plunkett. I don't know what he is; he is acquainted with Mr. *Layer*.

Mr. *Serj. Cheſhyre.* What Profeſſion is he of?

Plunkett. I don't know; nor how he lives, or gets his Bread.

L. Ch. Jus. Go on.

Plunkett. Mr. *Layer* paid the Charges for Major *Barnewell*, and brought him out of the *Marſhalſea*.

Mr. *Reeve.* How long was this ago?

Plunkett. To the beſt of my Knowledge, four Years ago.

Mr. *Reeve.* He is giving an Account how he came to be acquainted with Mr. *Layer*; the firſt Time was upon the Account of reſcuing Mr. *Layer*'s Goods; the other Time was by Mr. *Layer*'s redeeming Major *Barnewell* out of the *Marſhalſea*, and paying his Debt: Give an Account how you came laſt acquainted with him.

Plunkett. I being at Home, in my own Room.

Mr. *Reeve.* How long ago?

Plunkett. I believe, as near as I can gueſs, it was laſt *July*.

Mr. *Reeve.* Give an Account of what hapned then.

Plunkett. Now this *James Plunkett* came into my Room, ſat down, and he aſked me how I did, and ſaid he was glad to ſee me; and he aſked me, Are you not well acquainted in the Army? Yes, ſaith I, I know a great many in the Army, both Officers and common Soldiers. Do you know, ſaith he, any of the Serjeants of the Guards? I know ſome of 'em, ſaid I. He brought me out of the Room, becauſe my Wife was there, and then he opened his Mind to me: Saith he, Do you know one Mr. *Layer?* (I had forgot the Gentleman, being ſo ſlightly acquainted with him;) No, ſaith I, I don't know him. No matter, ſaith he, I have appointed a Place for you to meet him at, at the *Italian* Coffee-houſe in *Ruſſel-Court*; and at the End of this, Mr. *Plunkett*'s aſking me to keep Correſpondence with them for the Pretender's Service. I did not go to the *Italian* Coffee-houſe, not being in a proper Station, nor having Money for that Purpoſe: So I did not think proper to go to the *Italian* Coffee-houſe; but the *Sunday* following I went to St. *Andrew*'s Church, and meeting with ſome Friends, they told me Dr. *Sacheverel* preached there; and ſo they decoyed me to go and hear him preach there. When Service was over, to the beſt of my Knowledge, as I was going Home, between twelve and one a Clock, I met Mr. *Layer* accidentally in *Lincoln's-Inn-Fields*; Mr. *Layer* he look'd at me, he was really a perfect Stranger to me, for I did not know him again; ſaith he, Is not your Name *Plunkett?* Yes, ſaith I. Was there not one with you t'other Night, one *James Plunkett?* Yes, Sir, ſays I. Where did he deſire you to go? ſaid he. I anſwer'd, He deſired me to go to the *Italian* Coffee-houſe in *Ruſſel-Court*. Saith he, 'Tis well enough: Do you not know me? No, ſaith I, you have the Advantage of me; I aſk your Pardon, for I don't remember you. Don't you remember one *Layer?* ſaid he. Then I call'd to Mind that I knew the Gentleman. Saith he, Will you walk on this Side? I walked back again towards *Little Turn-ſtile*, and we ſtruck up the Wall-ſide, and juſt as we came under a great Coach-houſe Gate-way, we went in, and in the Gate-way he talk'd to me; ſaith he, I am told that you are a very honeſt Man, and well-affected ſo and ſo.

Mr. *Reeve.* Well-affected, to whom?

Plunkett. Well-affected as to the Buſineſs of the Pretender. At the ſame Time we had this Talk, he bid me not mention it to *James Plunkett*, that I had ſeen him: Then he aſk'd me if I knew any Serjeants in the Guards; for, ſaith he, I want ſuch old Soldiers as you are your ſelf, that could diſcipline a Mob, for we have other Men enough amongſt us; but if we could get ſome old Soldiers, if that could be managed, they would be finely rewarded. But, Sir, ſaith I, the Pretender is a Papiſt. Saith he, What Difference is there between a Papiſt King, and a *Lutheran* King?

Mr. *Reeve.* He ſaid he wanted ſuch old Soldiers as you; for what?

Plunkett. He wanted them to diſcipline a Mob, and to put them in Order. Then we began to reaſon about the Pretender; Why, ſaith he, we had as good have a Papiſt for our King, as a *Lutheran*.

Mr. *Serj. Cheſhyre.* What did you object?

Plunkett. I ſaid he was a Papiſt. Says he, We had as good have a Papiſt for our King, as to have a *Lutheran*, I don't know what Difference there is; but as it was, the Nation was enſlaved, and the People were obliged to be Slaves. I aſk'd him, Sir, who is the Promoter of this, that may join us? You ſee, ſays he, what Injuſtice is done to you, you have ſerved Abroad, and others are put over your Head; you have had and found great Hardſhips. I aſked him who promoted this? He ſaid the Lord *North* and *Grey*. Says I, He is a Peer of the Realm. Saith he, He is a fine General. And the Earl of *Strafford* he mentioned.

Mr. *Reeve.* Who did he ſay was a fine General?

Plunkett. He ſaid my Lord *North* and *Grey* was a fine General; and aſk'd me what I thought of him? I ſaid I had never been under his Command, but I look'd upon him to be a Great Man, and one of the Peers of the Land. And then he mentioned my Lord *Strafford*, What do you think of him? To which I made the like Anſwer. And what do you think of General *Primroſe?* I ſaid I had lately ſeen him at *Chelſea*, paſſing by in his Coach, but that he was an old Man; however, Mr. *Layer* ſaid he was a brave General. Then he aſk'd me what I thought of General *Webb?* I ſaid I had heard of his Fame.

Mr. *Serj. Pengelly.* When he ſaid my Lord *North* and *Grey* was a fine General, and

and when you aſk'd who promoted it, whether did Mr. *Layer* tell you what their Deſign was to do? When Mr. *Layer* aſk'd you, what do you think of this Perſon, and the other Perſon, what were they to do?

Plunkett. To raiſe a Rebellion.

Mr. *Serj. Pengelly.* Was that talk'd of at that Time?

Plunkett. Not at that Time.

Ld. Ch. Juſt. You ſaid he wanted ſuch old Soldiers as you; for what Purpoſe? You ſay he wanted them to diſcipline a Mob, and put it in Order?

Plunkett. Yes, my Lord.

Ld. Ch. Juſt. Did he tell you how many he wanted?

Plunkett. No; he did not ſay how many.

Mr. *Serj. Cheſhyre.* Was there any thing ſaid about their Names at that Time?

Plunkett. Mr. *Layer* would have me take a Liſt of their Names, and to enrol them, that they might know where they lodg'd, and where they quarter'd; that ſo when he wanted them, he might then ſend for them to be in Readineſs.

Mr. *Serj. Cheſhyre.* Was there any Number he aſk'd you the Names of?

Plunkett. I ſaid I knew a great many, and that I could get twenty five. Saith he, you ought to have a Liſt of their Names, where they lodge, that they may be in Readineſs for a Call: And ſaith he, This would have gone on ſome Time ago, only ſome Body made Diſcovery of it to the *French* Ambaſſador, and he wrote to the Regent, and ſo it was diſcovered to the King: And ſaith he, The Duke of *Ormond* was to come in one Ship, and General *Dillon* in another, and they would bring their Numbers with them; and then I ſhould ſee that the Army would not oppoſe them. And when I parted from him, he gave me half a Crown to drink.

Mr. *Serj. Cheſhyre.* What was that to do?

Plunkett. It was to encourage me. And he ſaid he would ſend a Meſſenger to me; and in a Day or two afterwards there came a Meſſenger from him: I was not at home, but he ſpoke with my Wife.

Mr. *Serj. Cheſhyre.* Who was that?

Plunkett. The Un-juring Miniſter.

Mr. *Att. Gen.* What was his Name?

Plunkett. His Name was *Jeffreys.*

Mr. *Att. Gen.* You ſay you was not at home the firſt Time; did he come again?

Plunkett. Yes.

Mr. *Att. Gen.* How long after?

Plunkett. A matter of five or ſix days after.

Mr. *Att. Gen.* Did you ſee him?

Plunkett. Yes, I ſaw him.

Mr. *Att. Gen.* What paſs'd between you?

Plunkett. He aſk'd me if I knew Mr. *Layer?* I told him I did. He then carried me to the *Caſtle* Tavern in *Drury-lane*, where we drank two Pints of Wine, which he paid for; after the Nonjuring Parſon told me he came from *Layer*, who gave his Service, and told me that he was employed by Mr. *Layer* to go to ſuch as I was, who were old Serjeants, to get a Parcel together to diſcipline Citizens, and other Mob in the Country.

Mr. *Att. Gen.* What further paſs'd between you and Mr. *Jeffreys?*

Mr. *Ketelbey.* I beg Leave to object to that Queſtion.

Mr. *Att. Gen.* If I don't bring it home to Mr. *Layer*, it will ſignify nothing.

Ld. Ch. Juſt. Mr. *Ketelbey*, you know that many times in Diſcourſe it is neceſſary to mention Introductions, to let in what is material: Whatever paſs'd between him and *Jeffreys*, don't affect your Client.

Mr. *Hungerford.* It is a conſtant Rule, if a Man ſpeaks of a third Perſon's Tranſactions, it is declared as nothing, and commonly ſtop'd from being given in Evidence.

Ld. Ch. Juſt. If they begin right, they will give Evidence in ſuch a Method as to be underſtood: By declaring what paſſed between him and *Plunkett*, the Evidence may be the better underſtood.

Mr. *Ketelbey.* I don't doubt your Lordſhip's giving Direction right; but I obſerve this, leſt ſome of the Jury ſhould not take it right.

Ld. Ch. Juſt. Let the Evidence be given in ſuch a manner as may be underſtood; what is introductory goes for nothing, but it is in order to explain the Evidence.

Mr. *Att. Gen.* What paſs'd between you and the Nonjuring Parſon, at the *Caſtle* Tavern?

Plunkett.

Plunkett. He talk'd to me of the ſame Subject, deſiring me to get Men in Readineſs; he told me, he had a great many Places to go to beſides me with this Errand, and then we parted. Another time he came to me, we went to an Alehouſe, to the *Cock* and *Bottle* in the *Strand*, where he gave me half a Guinea, and ſaid, there is a Token, Mr. *Layer* had ſent it me to give me Encouragement.

Mr. *Serj. Pengelly.* At that Time that Mr. *Layer* ſaid he would ſend a Meſſenger to you, did he mention any thing of Money?

Plunkett. Mr. *Layer* ſaid he would ſend Money by the Meſſenger to me.

Ld. Ch. Juſt. You ſay he told you, that he would ſend you Money by the Meſſenger.

Plunkett. He told me ſo.

Ld. Ch. Juſt. Afterwards you ſay, one came to you as from him, and encouraged you, and gave you half a Guinea.

Plunkett. He did: I am upon my Oath before God and Man, I will ſay nothing but the Truth.

Mr. *Serj. Cheſhyre.* Did you receive any Meſſage from *Jeffreys* to appoint a Meeting with Mr. *Layer?*

Plunkett. Some Time afterwards I met Mr. *Layer*, at eight a Clock, at the *Caſtle*-Tavern in *Drury-lane*; there was the Landlord, and Mr. *Layer*, who had two Bottles of Wine, and ſome Bread and Cheeſe: He would have had me eat, but I told him I could not eat; but I drank of the Wine. When he had diſcours'd with me about the Affair, to encourage me he gave me a Crown; I went croſs *Lincoln's-Inn-Fields*, ſo went home.

Mr. *Weſt.* What did he give you the Crown for?

Plunkett. To encourage me to liſt Men for the Pretender.

Mr. *Att. Gen.* Had you any Letter by the *Peny-Poſt?*

Plunkett. That Morning Mr. *Layer* was going to *Norfolk*, *Plunkett* told me Mr. *Layer* was going out of Town, and would be glad to ſee me. I went to Mr. *Layer*, and his Horſes were at the Door; he deſired me to walk up two Pair of Stairs forwards, and by the ſame Token ordered his Servant to charge his Blunderbuſs in the Room. Saith Mr. *Layer*, I have given a Guinea to the Nonjuring Miniſter to give you, to do what Service you can; and when I am Abroad, you may be ſure I ſhall not be idle.

Mr. *Reeve.* Was any Propoſal made to any other Perſon?

Plunkett. I brought an old Soldier who had been in the Service many Years.

Mr. *Reeve.* What was his Name?

Plunkett. John Child; I brought him as thinking he might have been of Service to them.

Ld. Ch. Juſt. What was it Mr. *Layer* ſaid when he was going into the Country?

Plunkett. He told me he would not be idle there.

Mr. *Serj. Pengelly.* What did he deſire of you?

Plunkett. He deſired me to ſee and get what Soldiers I could for him. I came to the Nonjuring-Miniſter, and told him I had got twenty-five. Then Mr. *Layer* aſk'd me, why I did not bring a Liſt of them, that he might know where their Habitations were, and that they might be in Readineſs at the Time. I diſcoured with Mr. *Layer* what would they do for Arms? No fear of Arms, ſaith he; Arms will be provided for them. After he return'd from the Country to the Town, this Mr. *Plunkett* was the firſt Meſſenger that was ſent to me; he came and told me Mr. *Layer* was come to Town; and this Nonjuring-Parſon ſent me a Letter by the *Peny-Poſt*; Mr. *Child* was in my Room and read it; the Contents were, *Mr.* Layer *is come to Town, and would be very glad to ſee you: No more, but your humble Servant* William Jeffreys. By this I knew his Name.

Mr. *Att. Gen.* By this Letter he told you Mr. *Layer* would be glad to ſee you; did you go to him?

Plunkett. Yes, I went to him.

Mr. *Att. Gen.* Where? to his own Houſe?

Plunkett. Yes, to his own Houſe.

Mr. *Att. Gen.* What paſſed between you and Mr. *Layer* at that Time?

Plunkett. I remember at that Time, when I came to him, he gave me a Guinea with his own Hand.

Mr. *Att. Gen.* Who gave it you?

Plunkett. Mr. *Layer*, after he came from the Country, gave it me, and I recommended Mr. *Child* to him.

Mr. *Serj. Pengelly.* When you recommended Mr. *Child*, what did *Layer* ſay?

Plunkett. He ſaid he had no Buſineſs for him.

Mr.

Mr. *Serj. Pengelly.* For what Purpoſe was *Child* recommended to Mr. *Layer?*

Plunkett. I recommended him as an honeſt Man, as one that was well-affected, as he deſired me.

Mr. *Serj. Pengelly.* Upon what Account did you recommend him?

Plunkett. Upon the Account to be a Pretender's Man.

Mr. *Serj. Pengelly.* Did you ever receive any Money to give to *Child?*

Plunkett. I receiv'd half a Guinea from Mr. *Layer* to give to Mr *Child*.

Mr. *Serj. Pengelly.* For what Purpoſe was it?

Plunkett. For to encourage him in the Service, to be truſty to him, and to be a Pretender's Man.

Mr. *Serj. Pengelly.* By what Name did he call the Pretender?

Plunkett. He called him the King.

Mr. *Serj. Pengelly.* Had you any Talk with him any other Time?

Plunkett. The *Sunday* before he was taken up I was with him, and he was talking and ſaying the King was as fine a Shooter as any in *Europe.*

Mr. *Serj. Pengelly.* Whom did he mean by the King?

Plunkett. The Pretender, that he was as fine a Shooter as any in *Europe*; he ſhot nineteen out of twenty. I ſaid, that was fine ſhooting.

Mr. *Att. Gen.* Where was this Diſcourſe?

Plunkett. In his own Parlour.

Mr. *Att. Gen.* Can you recollect any other Diſcourſe there was at that Time, beſides that of ſhooting?

Plunkett. Yes, there was; we talk'd of thoſe Men that would do Service. I aſk'd him what Rewards thoſe Men, that would do Service for their King and Country, ſhould have; he told me, that they, and their Families, were to be for ever taken Care of.

Mr. *Serj. Pengelly.* Was there any other Promiſe made to you?

Plunkett. There was no Promiſe; only he was the Man who ſaid, if I would follow his Directions, he would promote me; that he would engage to do great Matters for me; and what I ſuffer'd in the Army, he would make me Amends for.

Mr. *Serj. Pengelly.* Had you any Diſcourſe about the Diſpoſition of the Nation?

Plunkett. He ſaid, that moſt of the Nation was tir'd with the preſent Government; and he ſaid, that King *George* was for ruining of the Nation.

Mr. *Serj. Pengelly.* Had you any Talk of any Perſons at Court?

Plunkett. Yes; he ſaid, what ſignified the Government; there were but only eight or nine Upſtarts that belong'd to King *George*'s Court; that the ancient Peers of the Realm would not be run down; for they ſhould be made Slaves, if they did not prevent it.

Mr. *Serj. Pengelly.* Had you any Diſcourſe any other Time about the *Dutch* or the *French?*

Plunkett. Yes; I do remember that he ſaid, here is a *Dutch* Army come in upon this Nation, and then the *French* Army will come in, and take our Rights and Liberties from us: You will keep a *Dutch* Army, and it will be to make a War among our ſelves.

Mr. *Serj. Cheſhyre.* What would he have to cure all this?

Plunkett. He told me, that when the Inſurrection was, there would be a great many Half-pay-Officers as I knew that would be on the Pretender's Side, and eſpecially thoſe of the Names of *Fitzgerald*; but I never knew any *Fitzgerald* Abroad.

Mr. *Att. Gen.* We have done examining this Witneſs.

Priſoner. You ſay your firſt Acquaintance with me was in *Queen's-ſtreet*, and that Major *Barnwell* deſir'd you to aſſiſt me, there being an Execution in my Houſe; was it not ſo?

Plunkett. Yes.

Priſoner. At the ſame Time you called me Counſellor *Layer?*

Plunkett. Yes; I came to your Houſe.

Priſoner. Did I employ you?

Plunkett. Major *Barnwell* ſent me to get a Couple of Grenadiers, and you ordered your Clerk to let them in at the Back-door; and the two Grenadiers, which were confin'd in the *Savoy* afterwards for it, drove the Officers out.

Priſoner. Was it the Landlord of the Houſe's Goods, or my Goods?

Plunkett. I cannot tell; how ſhould I know whether they were yours, or his? they were in your Houſe.

Priſoner.

Priſoner. You ſaid it was about Five Years before I ſaw you in *Lincolns-Inn-Fields.*

Plunkett. It was when the Army was broke; and I came over from *Ireland.*

Priſoner. Well, you ſay, Five Years afterwards I met you in *Lincolns-Inn-Fields,* and gave you Half-a-Crown to drink. I told you my Lord *North and Grey* was to be General: That my Lord *Strafford* was concern'd in it.

Plunkett. No; you told me they were Promoters of it.

Priſoner. Promoters of what?

Plunkett. Of this Conſpiracy.

Priſoner. So you did not know me; nor I did not know you.

Plunkett. Yes, you knew me; therefore, Sir, ſaid I, you have an Advantage againſt me; for I don't know you. Afterwards we met one another by Accident. Says you, Don't tell *Plunkett* you met me.

Priſoner. What *Plunkett?*

Plunkett. *James Plunkett.*

Priſoner. Where lives *James Plunkett?*

Plunkett. I don't know: However, that's not material.

Priſoner. Did not you come to my Houſe ſome time after this; and deſire me to lend you 13 *s.* upon Account of being Bail in an Action in the *Marſhal's* Court?

Plunkett. That was Two Months after: There was a Soldier which was arreſted by a *Marſhal's*-Court Writ.

Priſoner. And I lent you 13 *s.* in order to diſcharge him?

Plunkett. Yes, you did.

Priſoner. Did not you afterwards aſk me for ſome Money on Account of Sir *Daniel Carroll?*

Plunkett. No.

Priſoner. Did not you make a Demand on Sir *Daniel?*

Plunkett. No: I told you my Affairs with Sir *Daniel.* You ſaid you would not meddle your ſelf, but you would write to him.

Priſoner. Did you not bring a Paper, and ſay, Sir *Daniel* had agreed to pay you 20*l.* when he receiv'd his Pay?

Plunkett. No; I brought no Papers to you.

Priſoner. Did not you tell me, it would be the greateſt Kindneſs in the World to you to advance 20 *s.* for you?

Plunkett. I never aſk'd you in the Courſe of my Life.

Priſoner. Did you never borrow any Money of me?

Plunkett. No; I never borrowed any Money of you, otherwiſe than to get Men liſted for the Pretender.

Priſoner. I ſhall ſhew that you are a little miſtaken by and by.

Mr. *Hungerford.* You ſaid, you was decoy'd to Church?

Plunkett. Decoy'd! I ſaid it was out of my Way, when my own Pariſh Church was nearer.

Mr. *Hungerford.* What, do you uſe to go to Church?

Plunkett. Yes.

Mr. *Ketelbey.* You ſay, the firſt Time you ſaw this *James Plunkett,* he came to you when your Wife was in the Room?

Plunkett. The firſt Time I ſaw him, was, when Mr. *Layer* releas'd Major *Barnewell* out of the *Marſhalſea.*

Mr. *Ketelbey.* When *James Plunkett* came to your Houſe, he took you by the Arm, and told you, he came from Mr. *Layer*; Did he tell you that firſt Time, he came from Mr. *Layer?*

Plunkett. Upon my Oath he did.

Mr. *Ketelbey.* What Diſcourſe had you the firſt Time? Did he only aſk you to go and meet Mr. *Layer?*

Plunkett. He came to me, and deſired me to meet Mr. *Layer* at the *Italian* Coffee-Houſe in *Ruſſel-Court.*

Mr. *Ketelbey.* Did *James Plunkett* talk to you about liſting Men for the Pretender the firſt Time he ſaw you?

Plunkett. No; he only was ſent on an Errand from Mr. *Layer.*

Mr. *Ketelbey.* And then you came to the Nonjuring Parſon: The Unjuring Parſon, as you call him. What Diſcourſe had you with him?

Plunkett. The ſame Diſcourſe paſs'd between us about liſting Men.

Mr. *Ketelbey.* What, the firſt Time you ſaw *James Plunkett*, and the firſt Time you ſaw the Nonjuring Parſon?

Plunkett. Becauſe he came from Mr. *Layer*.

Mr. *Ketelbey.* So you truſted both of 'em at firſt Sight, and talked to 'em about liſting Men for the Pretender.

Plunkett. Yes, both talked to me.

Mr. *Ketelbey.* How many times had this Unjuring Parſon been with you, before you knew his Name?

Plunkett. He had been with me two or three times; he told me his Name was *Jeffreys*, but did not tell me his Chriſtian Name.

Ld. Ch. Juſt. Did he tell you his Name was *Jeffreys* the firſt time?

Plunkett. He told me his Name was *Jeffreys*.

Ld. Ch. Juſt. How long after was it that this Letter was ſent to you by Mr. *Jeffreys*?

Plunkett. It was the Time when Mr. *Layer* came from the Country.

Ld. Ch. Juſt. How long ago was that?

Plunkett. I believe about ten Months ago: I mean ten Weeks ago.

Mr. *Ketelbey.* I wou'd not ſurprize you; I wou'd have you conſider you are upon your Oath: Is it ten Months, or ten Weeks?

Plunkett. Ten Weeks.

Mr. *Ketelbey.* How come you to remember the Contents of the Letter ſo exactly?

Plunkett. I heard it repeated over.

Mr. *Ketelbey.* Pray repeat it over again.

Plunkett. Mr. *Plunkett*, Mr. *Layer* is come to Town; I ſhou'd be very glad to ſee you: So I reſt your humble Servant, *William Jeffreys.*

Mr. *Ketelbey.* Where is that Letter?

Plunkett. I don't know; the Letter is loſt.

Mr. *Ketelbey.* Do you remember how long 'tis ſince this Letter was loſt?

Plunkett. Why, I miſs'd it about two Months ago, or more.

Mr. *Ketelbey.* Two Months ago, or more. How long was it after you receiv'd it that you miſs'd it?

Plunkett. I kept the Letter in my Pocket ſome time.

Mr. *Ketelbey.* How long?

Plunkett. I believe I had it three Weeks.

Mr. *Ketelbey.* So that 'tis ten Weeks ſince you receiv'd this Letter, two Months ſince you loſt it; you kept it in your Pocket three Weeks: You can read Writing?

Plunkett. No, I cannot.

Mr. *Ketelbey.* What, not read Writing?

Plunkett. No, Sir.

Mr. *Ketelbey.* How can you be ſo particular as to the Writing?

Plunkett. I have heard it read often enough.

Mr. *Ketelbey.* Who read it to you?

Plunkett. *John Child* read it over to me two or three times.

Mr. *Ketelbey.* Why, this is mere Romance, that at twice hearing it read, you can remember it, the very Words.

Plunkett. I can remember thoſe Words, to the beſt of my Knowledge.

Mr. *Hungerford.* How can he tell, when he cannot read at all? There is nothing in it. If one was to aſk him, whether can you recite the Articles of the Creed, I believe he cou'd not do it; and yet is ſo exact in repeating the Words of this Letter.

Priſoner. What Countryman are you?

Plunkett. An *Iriſhman*: You knew that long ago; you need not ask me that Queſtion now.

Mr. Serj. *Pengelly.* My Lord, We ſhall now proceed, and produce the Plan of this Conſpiracy, which was found among the Papers taken in Mrs. *Maſon*'s Poſſeſſion; and ſhall ſhew how they came to be in Mrs. *Maſon*'s Poſſeſſion; and we ſhall prove this Plan to be Mr. *Layer*'s own Hand-writing.

John Turner, *one of the Meſſengers, ſworn.*

Mr. *Att. Gen.* Look upon theſe Papers.

Turner *looks upon the Papers.*

Mr. *Att. Gen.* Do you know any thing of thoſe Papers, and where they were found?

Turner. My Lord, by Warrant from my Lord *Carteret*, Principal Secretary of State, dated the 29th of *September* laſt, I was directed to ſearch for one Mrs. *Maſon* and Mrs. *Cook*, and on the very ſame Day I executed that Warrant. I found out Mrs. *Cook*'s Houſe in *Stone-Cutters Yard* in *Little Queen-Street* near *Lincolns-Inn-Fields*; and in ſearching the Houſe ———

Mr. Serj. *Pengelly.* Who lodg'd there?

Turner. One Mrs. *Maſon* lodg'd there: I found her in the Houſe; and in her Lodging there was a Trunk, and being demanded to open the Trunk ———

Ld. Ch. Juſt. Was your Warrant to ſearch for both Mrs. *Maſon* and Mrs. *Cook*.

Turner. For both; and in Mrs. *Maſon*'s Lodgings there was a Trunk which the other Meſſenger and I demanded to be open'd: She open'd the Trunk, and in the Trunk there were two Bundles of Papers ſeal'd up; which Papers being open'd, this Paper was found amongſt them, (*meaning the Plan or Scheme.*)

Mr. Serj. *Pengelly.* Look upon it: How do you know that to be the ſame?

Turner. I know it to be the ſame, becauſe I writ upon't, I ſet my Mark upon it.

Mr. *Att. Gen.* You ſay that theſe Papers were found in the Trunk, in two Bundles ſeal'd up?

Turner. Yes.

Mr. *Att. Gen.* (*Shewing the Witneſs another Paper*) Look upon that; ſee if that was in the ſame Bundle with that you laſt gave an account of?

Turner. Yes, that was in the ſame Bundle.

And ſo he was examin'd as to ſeveral Particular Papers, which he ſwore to have been all found in the two Bundles taken out of Mrs. Maſon's *Trunk, and that he had ſet his Mark upon them.*

Mr. *Ketelbey.* I beg leave to aſk Mr. *Turner* a Queſtion or two. Mr. *Turner*, I think you give a poſitive Account of ſeveral Papers, what they are I know not; of ſeveral Papers handed to you from Mr. *Paxton*. You had a Warrant to ſearch for Mrs. *Cook* and Mrs. *Maſon*, and in a Trunk you found theſe Papers ſeal'd up in a Bundle.

Ld. Ch. Juſt. He ſaid he had Directions from my Lord *Carteret*, to ſearch for Mrs. *Cook* and Mrs. *Maſon*. That he ſearched Mrs. *Cook*'s Houſe, and found Mrs. *Maſon* there; he ſees a Trunk in the Houſe, in Mrs. *Maſon*'s Lodgings, and he demanded the Trunk to be open'd, and in the Trunk is found two Bundles of Papers; in theſe Bundles are theſe Papers which have been ſhewn to the Witneſs. When he is ask'd how he knew them to be the ſame that were in the Bundle, he ſays, he knows them to be the ſame, becauſe he ſet his Mark upon them.

Mr. *Juſt. Forteſcue Aland.* Were the Bundles ſeal'd up?

Turner. Yes, my Lord, they were ſeal'd up when we took them out of the Trunk.

Mr. *Att. Gen.* In whoſe Lodgings were they found?

Turner. At Mrs. *Maſon*'s Lodgings, in her Bed-Chamber.

Mr. *Ketelbey.* You ſay theſe Papers handed to you, you found in the Trunk in Mrs. *Maſon*'s Lodgings; Where have they been ever ſince? How come you to be ſo poſitive that theſe Individual Papers are the ſame Papers that you found in Mrs. *Maſon*'s Room?

Turner. I put my Name upon 'em.

Mr. *Ketelbey.* Is your Name put upon thoſe?

Turner. Yes, upon each of them at that time.

Mr. *Ketelbey.* How long were they in your Cuſtody?

Turner. About an Hour.

Mr. *Ketelbey.* Who did you deliver them to, when you parted with them?

Turner. I think, to Mr. *Stanyan*.

Mr. *Ketelbey.* I aſk you, when you put your Name on each of them, was it before you firſt parted with them?

Turner. After the Trunk was open, and the Bundles were open'd; in the Bundles finding Papers of Conſequence, I was directed to go and fetch Mr. *Stanyan* as being a Magiſtrate, to give that Perſon her Oath. While I was gone, I deliver'd the Papers into my Brother Meſſenger's Hand, and he ſigned them.

Mr. *Ketelbey.* So you ſwear only for your Brother Meſſenger. How long after your firſt ſeizing the Papers, was it before you put your Name upon them?

Turner. I believe three Quarters of an Hour.

Mr. *Ketelbey.* Who had you left them with?

Tur-

Turner. I left them with this Man, my Brother Meſſenger.

Mr. *Ketelbey.* You left them with your Brother Meſſenger before you ſet your Mark upon 'em; How comes it that you are ſure they are the ſame? How can you ſwear they are the ſame, when you went away and left them in your Brother Meſſenger's Hands, and did not ſet your Name upon them, 'till you returned?

Mr. *Soll. Gen.* You ſay theſe Papers were ſeized in Mrs. *Maſon*'s Lodgings; and that ſhe was by, and unlock'd the Trunk, and you took out the Two Bundles?

Turner. Yes.

Mr. *Att. Gen.* You ſay you deliver'd the ſame Papers to this Perſon here?

Turner. Yes, Sir.

Priſoner. Mr. *Turner*, in Mrs. *Maſon*'s Lodgings you ſay you ſeized Two Bundles of Papers ſeal'd up?

Turner. Yes.

Priſoner. When Mrs. *Maſon* had them lock'd up, were they then ſealed up?

Turner. They were then ſeal'd up.

Priſoner. Did not the Seals appear to have been broke open?

Turner. No.

Priſoner. You ſaw Two Bundles?

Turner. Yes.

Priſoner. You ſaw this Paper, and that, and all the Papers taken out of the Bundles. What Bundle was this Paper in? (*Meaning the Plan or Scheme.*)

Turner. This was in the ſmall Bundle.

Priſoner. Was there a ſmall Bundle, and a great Bundle?

Turner. Yes; there were Two Bundles.

Priſoner. And this was out of one of the Bundles?

Turner. Out of the ſmall Bundle.

Priſoner. Did you ſee them taken out of the Bundle?

Turner. I can't ſay that.

Mr. *Hungerford.* If I obſerve that Paper or Bundle right, it is one that conſiſts of ſeveral Sheets of Paper; I deſire he may hold it in his Hand, till we have done examining of him.

Mr. *Ketelbey.* Mr. *Turner*, that conſiſts of more Sheets than one; Did you ſign your Name to each Leaf, or only to the firſt and the laſt Leaf of the Book?

Turner. I ſign'd my Name to each Sheet.

Edward Speare *ſworn.*

Mr. *Att. Gen.* Mr. *Speare*, Did you go with Mr. *Turner* to ſeize any Papers at Mrs. *Cook*'s Houſe?

Speare. Yes; I did.

Mr. *Att. Gen.* Give an Account of what you know of ſeizing any Papers there.

Speare. My Lord, by a Warrant directed to us from my Lord *Carteret*, Mr. *Turner*, and I, were to ſeize Mrs. *Cook*, and Mrs. *Maſon*; and ſearching Mrs. *Cook*'s Houſe, I found Mrs. *Maſon* there. At Mrs. *Cook*'s I found no Papers in the firſt Room; I proceeded into a Second Room, where there was a Trunk, which I ordered to be opened, and I took Two Parcels out of it; one of 'em was ſealed with Three Seals, which I looked at; they did not appear to have been open'd, and ſeal'd up again. I open'd them, and mark'd them.

Mr. *Att. Gen.* Who was by?

Speare. Mrs. *Maſon* was.

Mr. *Att. Gen.* Was ſhe there when you open'd them?

Speare. She was by when they were open'd.

Mr. *Att. Gen.* Look upon them; are they the ſame Papers?

Speare. I have look'd upon them, and know them to be the ſame.

Mr. *Att. Gen.* Are thoſe the Papers that were taken out of the Trunk?

Speare. The very Papers.

Mr. *Att. Gen.* In whoſe Room were they taken?

Speare. In Mrs. *Maſon*'s Room.

Mr. Serj. *Cheſhyre.* Were they ever out of your Cuſtody, till you mark'd them?

Speare. No, Sir.

Mr. *Soll. Gen.* During the Time that *Turner*, your Brother Meſſenger, was gone for Mr. *Stanyan*, Who had the Cuſtody of the Papers?

Speare. I had the Cuſtody of them.

Mr. *Soll. Gen.* Were any of them taken away, or was there any Alteration in, or Addition to them, during that time?

Speare. No, Sir.

Mr. *Serj. Chesshyre.* Do you remember that Mr. *Turner* ſet his Name upon them?

Speare. Yes, he did.

Ld. Ch. Juſt. How long after your Brother Meſſenger return'd back to you, was it before you ſet your Name upon them?

Speare. Immediately, my Lord.

Mr. *Ketelbey.* How long did you ſtay in the Place after the Return of *Turner*?

Speare. I believe I might ſtay there an Hour, or an Hour and an half.

Mr. *Ketelbey.* When did you firſt part with the Papers out of your Cuſtody?

Speare. I gave them to Mr. *Stanyan.*

Mr. *Ketelbey.* How long after you firſt ſeiz'd thoſe two Bundles was it before Mr. *Stanyan* came to you?

Speare. I believe about half an Hour, or three quarters of an Hour.

Mr. *Ketelbey.* What, did you deliver them to Mr. *Stanyan* then?

Speare. After Mr. *Turner* and I had ſign'd them, I deliver'd them to Mr. *Stanyan.*

Mr. *Ketelbey.* Was it not before you ſign'd them?

Speare. No, upon my Oath.

Mrs. Elizabeth Maſon *ſworn.*

Mr. *Att. Gen.* Mrs. *Maſon,* Give an Account of what you know of theſe Papers?

Mrs. *Maſon.* Mr. *Layer* left two Parcels of Papers with me: He told me they were of the Value of 500 *l.* He afterwards took them away from me; and afterwards brought them to me again.

Mr. *Serj. Chesshyre.* You ſay, he deliver'd two Bundles firſt?

Mrs. *Maſon.* No; he deliver'd only one, and that was the largeſt Bundle: He told me it was of the Value of 500*l.* and deſir'd me to take care of it, and lock it up.

Mr. *Serj. Chesshyre.* When was the leſſer Bundle deliver'd to you?

Mrs. *Maſon.* Some time after; and after that, he took them away from me; and in four or five Days time he brought them to me again: He took them away, and brought them to me again, and told me they were a few Love-Letters; and begg'd of me not to let Mrs. *Cook* know it, for ſhe would make a Diſturbance, and tell his Wife.

Mr. *Serj. Chesshyre.* When had you the leſſer Bundle?

Mrs. *Maſon.* I had that ſome time after.

Mr. *Serj. Chesshyre.* What Directions had you with the little Bundle?

Mrs. *Maſon.* He deſired me to take the ſame Care of that, as of the other.

Mr. *Serj. Chesshyre.* Was that ſeal'd up?

Mrs. *Maſon.* They were both ſeal'd.

Mr. *Serj. Chesshyre.* Where did you put them?

Mrs. *Maſon.* I put them into my Trunk.

Mr. *Serj. Chesshyre.* After this; you know when the Meſſengers came?

Mrs. *Maſon.* Before that, he came one Day in the Afternoon to our Houſe, and ask'd where I was. It was the Beginning of *Eartholomew-tide.* I was not at home: He left a Meſſage for me, that I ſhou'd bring thoſe Writings home. I carry'd them home.

Mr. *Serj. Chesshyre.* Home! what do you mean by home?

Mrs. *Maſon.* Mr. *Layer*'s own Houſe: He left word, that he wou'd be at home by Eight a-Clock that Night. I was there about Eight a-Clock: I asked the Maid where he was? She ſaid he was in the Back-Parlour. I asked her if any body was with him? She ſaid there were two Gentlemen. Said I, Tell your Maſter that I am here.

Ld. Ch. Juſt. You ſay, the great Bundle was taken from you again, and afterwards he brought the leſſer Bundle; and after this you receiv'd a Meſſage, or Intimation, that you ſhou'd bring home that Bundle?

Mrs. *Maſon.* My Lord, I had Two Bundles. He left word, that I ſhould bring his Papers Home; for he ſtay'd at Home till Eight-a-Clock that Night. I went to his Houſe: And when I knock'd at the Door, the Maid came to the Door. I aſk'd her, if her Maſter was within? ſhe told me, Yes; he was in the back Par-

lour;

lour; and that there was a Gentleman or Two with him. I desir'd her to go and tell her Master that I was there. And he came out to me; and I gave him the Writings; and he desired me to come again the next Morning; which was on a *Saturday*, about Eleven-a-Clock, for he was going out of Town: And that I would come and take those Writings again. Which accordingly I did. It was in the Morning, at the Time that the Bell was ringing at *Lincolns-Inn* Chapel, when I went to him, and he deliver'd me the Papers again.

Mr. *Soll. Gen.* Can you recollect the Day that he left Word for you to come to him?

Mrs. *Mason.* It was the Beginning of *Bartholomew-tide.*

Mr. *Soll. Gen.* What Day of the Week was it?

Mrs. *Mason.* It was on a *Friday* Night that I went and carried them to his House.

Mr. *Soll. Gen.* And when was it that he desired you would come and call for them again?

Mrs. *Mason.* It was the next Morning at Eleven-a-Clock, or near the Matter, that I went to his House; and he gave me the Writings again, and charged me to take Care of them.

Mr. *Serj. Chesshyre.* What was you to do with them?

Mrs. *Mason.* To take care of them.

Mr. *Serj. Chesshyre.* Did you meddle with them, or open them?

Mrs. *Mason.* No, Sir; I put them in my Trunk: They lay there all the time.

Mr. *Serj. Chesshyre.* Were they there when the Officers came?

Mrs. *Mason.* Yes, Sir.

Mr. *Serj. Chesshyre.* Was you there when the Bundles were opened?

Mrs. *Mason.* I was there.

Mr. *Serj. Chesshyre.* Did you mark the Papers your self?

Mrs. *Mason.* I did.

Mr. *Serj. Chesshyre.* Look upon the Papers, and see if you find your Mark on those Papers?

Mrs. *Mason.* Yes, this is my Mark.

Mr. *Serj. Chesshyre.* Mr. *Speare*, you was present at the opening of them?

Mr. *Speare.* I was. They were sealed up when I opened them.

Mr. *Serj. Chesshyre.* Did you put your Name on them?

Mr. *Speare.* I did put my Name on them.

Mr. *Serj. Chesshyre.* Were they out of your Custody before you put your Name on them?

Mr. *Speare.* No; they were not.

Mr. *Serj. Chesshyre.* Did Mr. *Turner* put his Name to them?

Mr. *Speare.* He put his Name to them, before ever they were out of my Custody.

Mr. *Att. Gen.* You have mark'd all those Papers. You are sure those are the Papers you took out of the Trunk in Mrs. *Mason*'s Lodging?

Mr. *Speare.* I am sure they are.

Mr. *Att. Gen.* Shew them to Mrs. *Mason.* Mrs. *Mason*, were those Papers in the Bundles that were deliver'd to you by Mr. *Layer*?

Mrs. *Mason.* Yes, Sir; they were.

Mr. *Att. Gen.* You have mark'd those Papers, have you not?

Mrs. *Mason.* Yes, I have.

Mr. *Soll. Gen.* You said, you gave the Bundles back to Mr. *Layer* on a *Friday*, about the Beginning of *Bartholomew-tide.* Do you remember whether it was upon *Bartholomew*-Day or not?

Mrs. *Mason.* Indeed I don't know.

Mr. *Soll. Gen.* What did Mr. *Layer* say, when you brought them to him again?

Mrs. *Mason.* He only thank'd me; and desired me to come the next Day and take them from him again: Which I did.

Mr. *Soll. Gen.* Did he mention then, that he was going out of Town?

Mrs. *Mason.* Yes: And it was about Eleven-a-Clock on a *Saturday* Morning that I went to him, and he deliver'd the Papers to me again.

Mr. *Hungerford.* Can you write?

Mrs. *Mason.* No.

Mr. *Hungerford.* Have you made the same Mark on all those Papers?

Mrs. *Mason.* I was so frightned at that time, that I hardly knew what Mark I made.

Mr. *Hungerford.* If you was frightned at that time, and did not know what Mark you made, how can you be sure you know your Mark again?

Mrs. *Mason.* Yes, I can tell it very well.

Mr. *Hun-*

Mr. *Hungerford.* When you ſay you was ſo frighted you did not know what Mark you made?

Mrs. *Maſon.* Yes, ſure I do.

Mr. *Hungerford.* Upon the Oath you have taken, hath any Body ſeen thoſe Papers before they were taken by the Meſſengers; whether Sir *John Meeres*, or his Man *Thomas* hath ſeen them?

Mrs. *Maſon.* No.

Mr. *Ketelbey.* Nor his Man *Thomas*?

Mrs. *Maſon.* No, nor his Man *Thomas.*

Mr. *Ketelbey.* I aſk you, Can you write or can you read Writing?

Mrs. *Maſon.* I told you I can't.

Mr. *Ketelbey.* You only can make your Mark?

Mrs. *Maſon.* No.

Mr. *Ketelbey.* Do you only make but one Mark, or uſe ſeveral Marks?

Mrs. *Maſon.* I make but one Mark.

Mr. *Ketelbey.* Pray make the Mark you generally uſe? With Submiſſion, my Lord, I deſire ſhe may have a Pen and Ink to ſee if ſhe can make the ſame Mark again.

Mr. *Hungerford.* Surely we are regular in deſiring that?

Ld. Ch. Juſt. What you deſire is proper. She ſays ſhe knows them to be the ſame Papers, becauſe ſhe hath ſet her Mark upon them; they doubt whether ſhe may miſtake in her Mark, and deſire ſhe may make her Mark again.

Mr. *Ketelbey.* My Lord, we deſire that ſhe may make her Mark again.

Mr. *Soll. Gen.* We deſire ſhe may have a convenient Place to do it in, and that ſhe may ſit down while ſhe writes?

Mrs. *Maſon.* No, I can do it without. (*A Pen and Ink and Paper is given to her, and ſhe ſets her Mark an* E *and an* M.)

Mr. *Soll. Gen.* Here are the Letters *E* and *M* ſet to the Papers produc'd; and tho' in this Confuſion ſhe ſhould not make her Letters exactly like thoſe, yet I apprehend that would weigh very little.

Mr. *Att. Gen.* My Lord, I can't tell what they mean; this doth not depend ——

Mr. *Ketelbey.* My Lord, I deſire to go on with our Queſtions. I aſk you ——

Ld. Ch. Juſt. (*Having compared the Letters made by Mrs.* Maſon *in Court, with thoſe on the Papers*) The Character which ſhe now writes is like what ſhe writ on thoſe Papers, and ſo confirms her Evidence.

Mr. *Ketelbey.* After the delivery of thoſe Bundles to you by Mr. *Layer*, I aſk you whether Sir *John Meeres*'s Man *Thomas* ever ſaw thoſe Bundles open'd?

Mrs. *Maſon.* No, he never was up in my Room; there was no ſuch Familiarity between us.

Mr. *Ketelbey.* Did one *Wilſon* ever ſee them?

Mrs. *Maſon.* No.

Mr. *Ketelbey.* Did ever you produce them to one *Binks*?

Mrs. *Maſon.* No.

Priſoner. No? Nor did Sir *John Meeres*'s Man *Thomas* never ſee them?

Mrs. *Maſon.* No, never upon my Oath.

Mr. *Ketelbey.* Did you ever produce them ſealed up? Did you ever let *Thomas* or *William*, or Sir *John Meeres* himſelf ſee either of thoſe Bundles as they were ſealed up?

Mrs. *Maſon.* No, they were in my Trunk: I always kept them in my Trunk; perhaps as I open'd my Trunk, they might ſee them lie in my Trunk.

Mr. *Ketelbey.* Do you know one Mrs. *Buda*?

Mrs. *Maſon.* No. I don't know the Name. I don't know one Mrs. *Buda.*

Priſoner. Did you ever know one Mrs. *Herbert*?

Mrs. *Maſon.* I know many of that Name.

Priſoner. Did you ever go by that Name?

Mrs. *Maſon.* No.

Priſoner. Did you ever go by the Name of *Corbet*?

Mrs. *Maſon.* No.

Priſoner. Did you ever go by the Name of *Bevan*?

Mrs. *Maſon.* No, I never did go by the Name of *Bevan.*

Ld. Ch. Juſt. Mr. *Ketelbey*, I don't know what the Meaning of this Examination is; when it appears beyond Contradiction, that this Woman was an Acquaintance of your Client's.

Mr. *Ketel-*

Mr. *Ketelbey*. My Lord, if we prove her to be a ill Woman, I hope it will take off her Credit ſo that her Evidence will not weigh with your Lordſhip, or the Jury.

Ld. Ch. Juſt. At the Time when theſe Bundles were ſeized, had they Mr. *Layer*'s Seal upon them?

Mrs. *Maſon*. Yes. The Seal of Mr. *Layer* was upon them.

Ld. Ch. Juſt. What ſays the Meſſenger? At the Time that you ſeized theſe Two Bundles of Papers, was there any Seal upon them?

Meſſenger. There were Three Seals upon one, and ſome Seals upon the other; the Seal was ſomething of a ſmall Head.

Ld. Ch. Juſt. What is Mr. *Layer*'s Seal?

Mrs. *Maſon*. Something of a Head, but I can't tell what Head.

Mr. *Ketelbey*. Do you know Mr. *Layer*'s Seal?

Mrs. *Maſon*. Yes. It is ſomething of a Head.

Mr. *Ketelbey*. Was it the Repreſentation of a Man's Head, or the Head of a Beaſt?

Mrs. *Maſon*. It is a Head, with ſomething of a Ruff about it.

Ld. Ch. Juſ. Mrs. *Maſon*, look upon the Head. Is that Head the Seal of Mr. *Layer*.

Mrs. *Maſon*. Yes. Upon my Oath it is.

Ld. Ch. Juſ. What ſays the Meſſenger. Was that Seal of a Head upon them, when you ſeized them?

Meſſenger. Yes, It was.

Mr. *Ketelbey*. Before that Time that the Two Meſſengers came, Mr. *Turner* and Mr. *Speare*, and ſeiz'd the Papers, and afterwards one of them went for Mr. *Stanyan*; I ask you, Whether you had ſhown thoſe Bundles to any Body before that Time?

Mrs. *Maſon*. No; I had ſhown them to no Body.

Mr. *Att. Gen*. She hath ſaid ſo Two or Three Times before.

Ld. Ch. Juſt. Indeed, Mr. *Ketelbey*, we muſt direct you not to ſpend the Time of the Court ſo. You have ask'd her that Queſtion Two or Three Times over.

Mr. *Ketelbey*. My Lord, I would very fain have the Truth come out.

Mr. *Hungerford*. I will ask you a Queſtion or Two. What Trade or Buſineſs do you follow? What is your Trade or Occupation.

Mrs. *Maſon*. What is that to you? I have no Trade.

Mr. *Hungerford*. I ſhould have ask'd you another Queſtion before; Have you not a Promiſe of Reward for the Service you do here, in giving this Evidence?

Mrs. *Maſon*. No, I have not.

Priſoner. Nor you have received none?

Mrs. *Maſon*. No. You are an unjuſt Man.

Ld. Ch. Juſt. Are you promiſed any Reward! Why don't you ask her whether ſhe is to ſwear for Hire? Is that a proper Queſtion to ask a Witneſs?

Mr. *Ketelbey*. I ſubmit it to your Lordſhip, whether it is not proper to ask her this Queſtion; Whether ſhe hath not told any Perſon, and whom, that ſhe was to have a Reward for coming hither?

Priſoner. The Queſtion is, Whether ſhe hath never owned and confeſſed to any Body, that theſe Papers were opened before a Friend of hers, before the Meſſenger ſeized them?

Mrs. *Maſon*. No, my Lord, I never did. I never opened them before any Body.

Mr. *Att. Gen*. They have ask'd you what Names you went by; Do you know what Names the Priſoner at the Bar has gone by?

Mrs. *Maſon*. He had once given me Orders, that if any Letter came directed in the Name of *Fountaine*, that I ſhould take it in; accordingly in Two or Three Days Time, there came a Letter, directed to Mr. *Fountaine*, and I took it in; and when he came I gave it to him, and he opened it, and read it.

Priſoner. Where is your Houſe?

Mrs. *Maſon*. Where! where you left the Writings.

Priſoner. How can you tell how that Letter was directed, which you took in, ſince you ſay you cannot Read?

Mrs. *Maſon*. It was directed to Mr. *Fountaine*.

Priſoner. Did you read the Superſcription?

Mrs. *Maſon*. No. Mrs. *Cook* did.

Ld. Ch. Juſt. You ſay you was deſired by Mr. *Layer*, when any Letter came directed to Mr. *Fountaine*, to take it in; and that a Letter came directed to Mr. *Fountaine*, and you took it in. The Queſtion is asked you, ſince you cannot read, how could you tell it was directed to Mr. *Fountaine?*

Mrs. *Maſon.* My Landlady told me it was for Mr. *Fountaine*, and ſhe knew he went by the Name of *Fountaine* ſometimes.

Priſoner. She ſaid ſhe read it.

Mrs. *Maſon.* No. I ſaid I gave it to you, and you open'd it, and you read it.

Ld. Ch. Juſt. The Occaſion of this Queſtion is, that this *Miſnomer* was approved of by you. She ſays that you order'd her, that if any Letter came directed to Mr. *Fountaine*, ſhe ſhould take it in; a Letter did come directed ſo, ſhe took it in, and then deliver'd it to you; and you receiv'd it from her, and open'd and read it; but how, ſay they, cou'd you know this Letter was directed to Mr. *Fountaine*, when you can neither write nor read? She having receiv'd ſuch an Order, when there was a Letter come, it was natural enough, that ſhe that cou'd not read, ſhould ask her Landlady the Directions of the Letter, and it was directed for *Fountaine*; it was natural enough for her to take it in, and give it to you.

Who brought the Letter?

Mrs. *Maſon.* A Porter.

Ld. Ch. Juſt. Did he ſay from whence he came?

Mrs. *Maſon.* He told me he came from the *Ditch-Side*, and ask'd me if Mr. *Fountaine* lodg'd there.

Mr. *Hungerford.* This Trunk that the Papers were in, did it uſe to be kept open, or was it lock'd up?

Mrs. *Maſon.* It was always lock'd up.

Mr. Doyley *ſworn.*

Mr. *Att. Gen.* Mr. *Doyley*, Do you know Mr. *Layer*; and how long have you known him?

Doyley. I have known him about Seventeen or Eighteen Years; he was my Clerk; 'tis thereabouts, I believe.

Mr. *Att. Gen.* Do you know his Writing?

Mr. *Doyley*, I believe I do.

Mr. *Att. Gen.* Look upon that Paper, (*he is ſhewn the Scheme.*)

Mr. *Att. Gen.* Do you take that to be his Hand?

Doyley. If you ask me as to my Belief, I believe it is.

Mr. *Att. Gen.* Have you often ſeen him write?

Doyley. Yes, Sir.

Mr. *Att. Gen.* Have you ſeen him write ſince he left your Service?

Doyley. I have had ſeveral Letters from him, ſince he was my Clerk.

Mr. *Att. Gen.* Look upon that Paper; Can you ſwear that you believe that is his Hand-writing?

Doyley. I have ſeen the Paper before, and I do believe it to be his Hand-writing.

Priſoner. Have you ſeen me write any Thing but my Name, theſe Fourteen Years?

Doyley, I can't particularly recollect whether I have or no.

Priſoner. How long is it ſince I was your Clerk?

Doyley. About Fourteen or Fifteen Years.

Priſoner. Have you ſeen me write ſince?

Doyley. I can't ſay I have, or I have not.

Ld. Ch. Juſ. How long is it ſince you receiv'd any Letters from him?

Doyley. About Five Years ago.

Ld. Ch. Juſt. How do you know thoſe Letters came from him?

Doyley. Becauſe he was my Client, and writ to me about Buſineſs; and I anſwer'd thoſe Letters, and did the Buſineſs that he deſired me to do by thoſe Letters.

Ld. Ch. Juſt. Did he pay you for that Buſineſs done?

Doyley. Yes, very honourably.

Priſoner. You ſay you don't remember you have ſeen me write ſince I came from you; as to that Paper which you ſay you believe to be my Hand, Have you compar'd it with thoſe Letters?

Doyley. I have.

Priſoner. Is that what you found your Belief upon?

Doyley. That is what I chiefly found my Belief upon.

Priſoner. Conſider, Mr. *Doyley*, my Life is at Stake, and you ſay you have not ſeen me write theſe Fourteen Years?

Doyley. I don't know that I have.

Priſoner. Have you any of my Letters in Court?

Doyley. I have not your Letters in Court.

Priſoner. You ſay, you found your Belief only by Compariſon of thoſe Letters. Now I wiſh you had brought thoſe Letters here.

Mr. *Att. Gen.* He doth not ſay ſo.

Mr. *Doyley.* If you had deſir'd it, I cou'd have brought 'em.

Priſoner. I deſir'd it! I little thought to have ſeen you here on ſuch an Occaſion.

Mr. *Att. Gen.* Mr. *Doyley*, I aſk you, if you had no Dealings with him ſince he was out of his Clerkſhip?

Mr. *Doyley.* Yes, I was his Agent.

Ld. Ch. Juſt. Whoſe Name is ſubſcrib'd to thoſe Letters?

Mr. *Doyley.* *Chriſtopher Layer*'s.

Ld. Ch. Juſt. You did the Buſineſs mentioned in thoſe Letters; and he honourably paid you for it?

Mr. *Doyley.* Yes, my Lord.

Ld. Ch. Jus. I ſuppoſe, in your Time, that you will ſhew that other People writ Letters in your Name?

Mr. *Ketelbey.* You ſay, you believe that Paper to be Mr. *Layer*'s Hand-writing. And if I did not miſunderſtand you, I took it down in Writing, you founded your Belief on the comparing that Writing with the Letters which you receiv'd?

Mr. *Doyley.* I ſaid, I chiefly founded my Belief upon ſuch Compariſon of Hands.

Mr. *Ketelbey.* That you chiefly did ſo; and you have not thoſe Letters here in Court, on which you chiefly founded this Belief.

Mr. *Soll. Gen.* Mr. *Doyley*, I think you ſay you have ſeen him write ſeveral Times?

Mr. *Doyley.* I don't remember that I have ſeen him write theſe 14 Years.

Mr. *Soll. Gen.* During the Time he was your Clerk, you have ſeen him write?

Mr. *Doyley.* Yes; he was but Two Years with me: He had been Clerk with Mr. before.

Mr. *Soll. Gen.* Then he had been us'd to Buſineſs before he came to you; and had form'd his Hand.

Mr. *Hungerford.* How old was he, when he was your Clerk?

Mr. *Doyley.* Indeed I don't know.

Mr. *Hungerford.* You form your Belief upon the Remembrance you have of what was his Hand-writing 14 or 15 Years ago?

Ld. Ch. Juſt. You ſay, you have receiv'd Letters ſubſcrib'd by his Name Five Years ago?

Mr. *Doyley.* Yes, my Lord.

Ld. Ch. Juſt. Was the Character of thoſe Letters that you receiv'd Five Years ago, agreeable to the Characters that he writ when he was your Clerk?

Mr. *Doyley.* Yes, my Lord.

Ld. Ch. Juſt. Then I aſk you upon the whole, Whether you believe it to be his Hand-writing or not?

Mr. *Doyley.* Yes, I do believe it to be his Hand.

Priſoner. Since my unhappy Circumſtances, have you had no Promiſe of being reſtor'd to your Place again, or the Promiſe of ſome other Office or Place?

Mr. *Doyley.* No; I never, to my Knowledge, have ſeen one Man that had the Power to put me in my Place again; nor ever convers'd with any one Great Man upon that or any ſuch Affair.

Mr. *Serj. Pengelly.* We think we are entitled to read it: However, that there may be no Diſpute, we deſire to call Mr. *Delafaye* and Mr. *Stanyan*, in whoſe Preſence the Priſoner at the Bar confeſs'd it to be his Hand-writing.

Mr. Delafaye *was ſworn.*

Mr. *Serj. Pengelly.* Sir, was that Paper ſhewn to the Priſoner at the Bar?

Mr. *Delafaye.* I was not near enough when he was before the Lords of the Council, to ſee what was upon the Table; neither did I look upon the Table, to ſee whether this Paper was on it or not. But upon a Queſtion that was aſked him, relating to ſome Arms, if he knew where any Arms were lodged in ſuch a Place, he ſaid, No: Upon which, one of the Lords of the Council held up a Paper; it might be this, for ought I know; and ſaid, Here is your own Paper, your own Hand-Writing; which ſays, Arms that are there lodged; ſays he, I ſhould have writ Arms that ſhould be there lodged.

Ld. Ch. Juſt. Whether is that the Paper or no, and did he own that Paper that was then ſhewn to be his?

Mr. *Delafaye.* The Queſtion was not aſk'd, Is this your Paper and your Hand-Writing? But it was ſhewn to him as ſuch; and he ſaid, I ſhould have wrote Arms that ſhould be there lodged.

Mr. Stanyan *ſworn.*

Mr. *Att. Gen.* Mr. *Stanyan,* Do you remember whether this Paper was ſhewn to the Priſoner at the Bar, or any Queſtions aſk'd him about it, when he was before the Lords of the Council?

Mr. *Stanyan.* Upon the Queſtion that was aſk'd him about the Arms, this Paper was ſhewn him; I think this is the Paper: I was nearer to the Table than Mr. *Delafaye,* and did obſerve this Paper to lie upon the Table before the Lords, and do take this to be the individual Paper that was ſhewn him then.

Mr. *Att. Gen.* What was ſaid to him at that time?

Mr. *Stanyan.* The Queſtion was aſk'd him, What he knew of any Arms that were lodg'd in *Weſtminſter?* He ſaid, he knew of none. Then this Paper was ſhewn to him, and a Queſtion was aſk'd him; Here the Arms are ſaid to be lodg'd in this Scheme of your own Hand-Writing; how came you to write ſo, if there be no Arms lodg'd? Mr. *Layer* ſaid, It was a miſtake: It was not intended Arms that are there lodg'd, but Arms that ſhou'd be there lodg'd. He ſaid, I ſhou'd have writ Arms that ſhou'd be lodg'd, inſtead of Arms that are lodg'd.

Mr. *Serj. Cheſhyre.* The Queſtion was concerning a Paper of his own Hand-writing?

Mr. *Stanyan.* Yes, It was concluded, that the Paper was of his own Hand-writing, and he did not deny it.

Mr. *Att. Gen.* Did he ſay it was not his own Hand-writing?

Mr. *Stanyan.* No, he did not.

Mr. *Ketelbey.* Was the Queſtion aſk'd, whether that Paper was his Hand-writing or no?

Mr. *Stanyan.* No, I believe not.

Mr. *Ketelbey.* Then if there was no Queſtion aſk'd; whether did he own it to be his Hand-writing or no?

Mr. *Stanyan.* He did not expreſly own it to be his Hand-writing.

Mr. *Att. Gen.* He was not aſk'd that Queſtion, whether it was his Hand-writing or no?

Mr. *Stanyan.* No, Sir.

Mr. *Serj. Pengelly.* He did not deny it to be his own Hand-Writing?

Mr. *Stanyan.* No, Sir.

Mr. *Weſt.* Whether the Lords in their Queſtion did ſtate it ſo, as taking it for his own Hand-Writing?

Mr. *Stanyan.* It was taken for granted that it was ſo, and he made no Offer to deny it.

Priſoner. Pray, Sir, let me aſk you one Queſtion about the Arms? When I was aſk'd, if there were any Arms lodg'd, did I not anſwer in the Negative, and ſaid, No?

Stanyan. Yes.

Priſoner. In relation to the Arms, you ſay, that I ſaid Arms that ſhou'd have been lodg'd?

Stanyan. That was upon the Lords aſking you, to explain that Part of the Scheme relating to Arms; and when you ſaid you knew of no Arms that were lodg'd, then ſaid they, how come you to mention in this Scheme of your own Hand-Writing, Arms that are lodg'd? To which you anſwer'd, I ſhou'd have writ Arms that ſhou'd be lodg'd.

Priſoner. When I was aſk'd, why I did ſay Arms that are lodg'd? Why, ſaith I, my Lords, I know of no Arms. If that was my Paper, and I had writ it, I ſhou'd have writ Arms that ſhou'd be lodg'd.

Mr. *Att. Gen.* My Lord, we pray that the Papers may be read.

Mr. *Hungerford.* My Lord, we hope that theſe Papers, (though for my Part I know not what they are; for there is no Hint of them in my Brief,) ſhall not be read, for this Reaſon; the Evidence which hath been given for the King, hath not brought them Home to the Priſoner. There is no legal Proof that the Papers are of his Hand-writing; and conſequently he cannot be affected by any thing that is in them. As to what is ſaid of the Likeneſs of Hands, that we humbly hope is no Evidence at all. The firſt Witneſs, Mr. *Doyley,* he hath ſaid it is like his Hand; but he gives that Opinion of his, on the Knowledge he had of the

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Priſoner's Hand 14 Years ago; and by ſome Letters he receiv'd from him about 5 Years ſince. Men's Hands may differ and vary even in 5, much more in 14 Years.

What follows is the Evidence that hath been given by the Gentlemen belonging to the Secretaries Office.

I perſonally know them to be Gentlemen of good Senſe, Integrity and Honour, and for my part I believe every word they ſay; which is more than I can ſay of the other Witneſſes hitherto produc'd. But what theſe ſay, doth not, with Submiſſion, affect the Priſoner: They were preſent when the Priſoner was examin'd before the Lords of the Council; none of them heard the Priſoner acknowledge that the Papers were writ by him, or that he did own them as his; neither was he ask'd any Queſtion to that Purpoſe; neither did the Nature of the Examination my Lords of the Council were then upon, lead them to ſuch a Queſtion: The Lords were not asking Mr. *Layer* Queſtions to fix an Evidence upon himſelf. But the Lords having ſome Papers before them, and, according to the Duty of their high Stations, being intent upon diſcovering what might be of Danger to His Majeſty and the Publick; they ask'd Mr. *Layer*, where the Arms were depoſited at *Weſtminſter?* He anſwers, that he knew of none there, or to that Purpoſe. It cannot in Law or Reaſon be from hence inferr'd, that he did own the Papers to be of his own Hand-writing. The only Evidence therefore which can be inſiſted on to entitle theſe Papers to be read, is the Evidence of Likeneſs of Hand, which is no Evidence at all in a criminal Caſe.

In my Lady *Carr*'s Caſe, it was not allow'd to be Evidence; and yet that was not a Capital Caſe, but a Caſe of Miſdemeanor only, it was Perjury. But there is an Authority beyond all that; we have the Act of Parliament for the Reverſal of the Attainder of Colonel *Sidney*, who had been convicted upon Evidence given of the Similitude of Hands, and that a much ſtronger Proof than what appears here; for *Cook* and *Cary*, two famous Goldſmiths, ſwore they believ'd the treaſonable Libel laid to Colonel *Sidney* to be writ by him; and aſſign'd that for a Reaſon of their Belief, for that they had receiv'd ſeveral Bills from him of the like Hand-writing, which they conſtantly paid. Nay, one of the Goldſmiths ſwore, (as I remember the Tryal) that he ſaw the Colonel write a Receipt. Some other Caſes of this Nature might be quoted, but we depend upon the Authority of my Lady *Carr*'s Caſe, and the Act for reverſing the Attainder of Colonel *Sidney*, which is *inſtar omnium*; for in that Act the Reaſon aſſign'd for reverſing the Attainder, is, for that the Conviction and Attainder was founded upon a Similitude of Hands. We have an atteſted Copy of the Act here ready to be read. In Conſequence of this Act, my Lord, Similitude of Hands is never to be given as Evidence in a criminal Caſe: And therefore we humbly hope, that this Paper is not ſo prov'd, as to be read in any Court, but muſt be rejected: It is not prov'd to be his Hand by any that ever ſaw him write; neither hath any body heard him own it to be his.

Mr. *Ketelbey*. My Lord, I beg Leave to ſay a few Words in Support of this Objection. We don't know what is the Purport of this Paper. I dare ſay, Mr. *Hungerford*, as well as my ſelf, hath not ſeen one Tittle relating to it whatſoever; but I hope, for the Sake of Evidence, the Sacred and Eternal Rule of Evidence, that Similitude of Hands ſhall not go for Proof, where a Perſon is charged with a Capital Offence. We ſhall in due time endeavour to lay before the Court ſeveral material Objections to the Credit of ſome of the Witneſſes; but at preſent we muſt ſuppoſe them unexceptionable, and conſider, with reſpect to this ſingle Point, whether this Paper is ſufficiently prov'd to be his Hand-writing, ſo as to be read. Mrs. *Maſon* and the Meſſengers have endeavour'd, by a jumbling Evidence, to prove the Identity of the Papers, and to hand them down from one to another: But how do they appear to be of the Priſoner's Hand-writing? Mr. *Doyley* ſays, Fourteen or Fifteen Years ago he was his Clerk; that Five Years ago he receiv'd Letters from him; and that he chiefly founded his Opinion that it was the Priſoner's Hand-writing, becauſe he had compar'd it with thoſe Letters, and that the Hands were alike: And yet thoſe Letters with which he compar'd this Paper, he hath not in Court to produce. This is the Subſtance of *Doyley*'s Evidence.

My Lord, I humbly inſiſt, that this is not ſufficient; and if Compariſon of Hands was to be Evidence, ſurely this would not do, unleſs he produc'd thoſe Papers on which he owns he founded his Opinion. I refer it to the Jury, whether he may not poſſibly, nay probably, make an erroneous Judgment.

Shall a Man be believ'd out of his Life, becauſe the Witneſs ſaw him write fifteen Years ago, and received Letters from him five Years ago? Is any Thing more changeable than a Man's Hand-Writing? Can either of you Gentlemen take upon you to ſay what is or is not your Writing after ſo great a Length of Time? Wou'd not the different Subjects, the one a common Letter of Buſineſs, the other a treaſonable Scheme, make a ſenſible Variation even in a Man's uſual Character?

The Caſe of my Lady *Carr* is reported in *Siderfin*, *fo.* 419. and was upon an Indictment of Perjury, an Offence of a much lower Nature than what this Gentleman is now tried for: There a Witneſs ſwore he believed the Paper produced in Court to be her Hand-writing, yet it did not amount to ſuch a Proof as to make her guilty: Nay, the Court ſaid expreſly, that it was not Evidence, and ſhould not be admitted; and accordingly ſhe was acquitted. But the higheſt Authority is what Mr. *Hungerford* hath named, the Act of Parliament for the Reverſal of the Attainder of Col. *Sydney*; and we have a Witneſs here ready, that examined it with the Record, that proves it to be a true Copy. *Algernoon Sydney* was attainted of High Treaſon by Similitude of Hands, and that was the Reaſon of the Reverſal.

The two next Witneſſes are Mr. *Delafaye* and Mr. *Stanyan*, Gentlemen of Honour, and that wou'd not ſtrain a Point upon any Account whatſoever. Mr. *Delafaye* doth not know whether this Paper was on the Table, when Mr. *Layer* was examined before the Lords of the Council, or no: Mr. *Stanyan* ſays, he was ſomewhat nearer the Table, and he takes the Paper that is now produced to be the ſame Paper that was upon the Table in the Room before the Lords of the Council, when Mr. *Layer* was there; becauſe when it was produced there, and ſhewn to him, he ſaid, I ſhou'd have wrote Arms that ſhou'd be lodg'd.

Mr. *Stanyan* owns, that he never was ask'd the Queſtion, Whether it was his Hand-writing or no? How then ſhou'd he deny it, if it was never put to him? And therefore to ſay, becauſe he did not deny a Queſtion that was never asked him, that that ſhall import, as to this particular Matter, a Confeſſion, is to me ſtrange and unaccountable! The natural Senſe of the Priſoner's Words, as proved, is no more than this: No, If I had writ it, I ſhou'd have rather wrote Arms that ſhou'd be lodged, than Arms that were lodged. Therefore, my Lord, we humbly apprehend they have not given Evidence in this Caſe, ſufficient Evidence to ſupport the Reading of thoſe Papers.

Your Lordſhips are now to lay down a perpetual Rule of Evidence: For lateſt Poſterity will pay a juſt Regard to the preſent Determinations; and if Compariſon of Hands in this Caſe be allowed as Evidence, the ſame Rule muſt for ever hold in all parallel Caſes; and God knows what may be the Conſequence of ſuch a Reſolution, or who may be affected by it.

Mr. Serjeant *Pengelly*. My Lord, We hope, that notwithſtanding what hath been objected to the Reading of this Paper, that we are proper to have it read: Though they have mentioned ſome Caſes for to maintain their Objection, yet the later Authorities, and the conſtant Courſe of Evidence ſince, as we think, are directly with us: As the Caſe of my Lord *Preſton*, where eight or nine of the Judges were preſent.

In the Caſe of the Lady *Carr*, there is that Opinion inſiſted on given at the End of the Caſe in a ſhort unintelligible Manner.

[Here Mr. *Hungerford* interrupted.]

Mr. *Hungerford*. My Lord, I don't know whether we ſhall be at Liberty, when the King's Counſel have done, to read the Act; and therefore I offer it to your Lordſhip's Conſideration, whether we ſhould not read it now.

L. Ch. Juſtice. Read the Act of Parliament.

Mr. *Ketelbey*. Call Mr. *Theedam*.

Mr. *Attorn. Gen.* We are apprized of that Act of Parliament; I have an examined Copy of that Act; but we apprehend it will not come up to what they cite it for.

Mr. *Ketelbey*. We have five Acts of Parliament that we have examined with the Records; we did not know where they would ſhoot at us, and therefore were reſolved to be armed *Cap-a-pe*.

Mr. Serj. *Pengelly*. As to my Lady *Carr*'s Caſe, it will be hard to maintain that Opinion, becauſe the Letters they produced were not in the direct Inſtance of the Perjury.

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Even the Act of Parliament, which they produce, it takes Notice, that a Paper was found in the Cloſet of Mr. *Sydney*, and was read, without proving it to be of his own Hand-writing; Is this Paper found without any Owning and Acknowledging it by the Priſoner? Is not this Paper delivered by Mr *Layer* himſelf to Mrs *Maſon*? Had not he this Paper in his Cuſtody, and it proceeded from him?

In the Caſe of my Lord *Preſton*, there were a great Number of Judges, My Lord Chief Juſtice *Holt*, Lord Chief Juſtice *Pollexfen*, and others; there the Indictment of my Lord *Preſton* was his Adhering to the King's Enemies, and amongſt other Overt Acts alledged his Carrying ſeveral Papers of Inſtructions to inform the *French* King how to attack the Kingdom: Mr. *Wayer*, who had been an Under-Secretary to my Lord *Preſton*, ſwore that he believed ſome of thoſe Papers to be like the Lord *Preſton*'s Hand, and they were all read in that Caſe by the Opinion of the whole Court, tho' they were the very expreſs Overt Acts alledged in the Indictment it ſelf: How doth this ſtand here? Suppoſing no Uſe is made of the Evidence of Mr. *Doyley*? When this Paper is ſhewn to Mr. *Layer* himſelf, before the Lords of the Council, and was mentioned as a Paper of his own Writing, and he is asked how he came to write Arms that are ſaid there to be lodged, his Anſwer is, I ſhould have wrote, Arms that ſhould be there lodg'd; Is not this ſufficient Evidence to prove a Confeſſion? Doth not this amount to an Evidence of his Confeſſing it to be his own Writing? So here is, as we apprehend, the Evidence not only of the Thing it ſelf, but likewiſe the Priſoner's own Declaration, that he was the Perſon who wrote it. In Sir *Henry Vane*'s Caſe, the Warrant given in Evidence againſt him was proved only by Witneſſes who believed it to be his Hand; but here is a particular Fact which (we apprehend) amounts to a Confeſſion, and is a proper Evidence for the Jury to conſider of, whether this be not a Confeſſion.

Mr. *Attorn. Gen.* My Lord, I apprehend that we have given very proper Evidence to intitle us to read this Paper: My Lord, I beg Leave to obſerve firſt, that it hath been proved that this Paper was found among the Papers, which the Priſoner delivered to Mrs. *Maſon*, to be kept for him, which were ſeized in her Lodgings, as the Witneſſes have before acquainted your Lordſhip, and if that were all, this Paper muſt be read. As to that, the Lord *Preſton*'s Caſe is direct in Point, and ſo determined by ſix or ſeven Judges, *viz.* that Papers found in the Poſſeſſion of the Priſoner may be read without further Proof. But we inſiſt that this Paper is legally and regularly proved to be his Writing by the Evidence of Mr. *Doyley*, and the Priſoner's own Confeſſion: The Counſel for the Priſoner have mentioned Lady *Carr*'s Caſe, and the Act for the Reverſal of the Attainder of Col. *Sydney*, and ſay they have a great many other Caſes to the ſame Purpoſe.

I defy them to ſhew any one ſingle Caſe, wherein it has been determined, that Proof of a Perſon's Hand by a Witneſs, who ſwears he has ſeen him write, and knows his Hand, and believes the Paper produced to be of his Hand-writing, is not a ſufficient Proof in a criminal Proſecution, that that Paper is ſuch a Perſon's Hand, before my Lady *Carr*'s Caſe; if that Caſe does ſupport the Opinion they have laid down: In all Actions ſuch Evidence hath been conſtantly allowed; then I ſhould be glad to know what Law or what Reaſon has made a Difference as to ſuch Evidence, between civil Actions and criminal or capital Proſecutions. As to my Lady *Carr*'s Caſe, the Book is very dark and obſcure; I believe the Priſoner's Counſel cannot make it ſupport what they now contend for.

Lady *Carr* was indicted for Perjury, ſuppoſed to be committed in an Anſwer ſworn by her before a Maſter in Chancery: What is there ſaid about a Letter does not appear at all to relate to the Caſe there; and if any Judge did lay down ſuch a Poſition, as has been mentioned by the other Side, the Meaning muſt be, that an Anſwer on Oath ſhall not be falſified by a Letter only under the Party's Hand, and that ſuch a Letter ſhould not be a ſufficient Evidence to convict him of Perjury.

As to the Caſe of Col. *Sydney*, 'tis very well known that he was a Gentleman of Quality, and in his Study a Writing was found, *viz.* *A General Treatiſe of Doctrines and Poſitions*, which were very diſtaſtful to the then Government, writ in Anſwer to a Book formerly publiſhed. It was not a Scheme for raiſing a Rebellion, nor was it deſign'd, for any Thing that appeared, that it ſhould go out of his own Cloſet, but his Papers being ſeized, this Paper was found there among them; and for this he was indicted of High Treaſon. It was generally thought extreamly hard to

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make his having by him ſuch a General Tract, writ in Anſwer to a particular Book; and kept private in his Cloſet, an Overt Act of Treaſon. However, he was found guilty, and attainted. No Wonder then, when this came into Parliament, that they reſented this Proceeding, and revers'd his Attainder. And the Reaſons recited in the Act, as Inducements for this Reverſal, are accumulative; every Step taken in that Proceeding is complained of, and there is not Streſs laid only upon the Proof of this Paper, but

The Act recites, *That Col.* Sydney, *by Means of an illegal Return of the Jury, by denying him his lawful Challenges to the Jurymen, for Want of Freehold, and without ſufficient legal Evidence of any Treaſons committed by him, there being produced a Paper found in his Cloſet, ſuppoſed to be his Hand-writing, which was not proved by any one Witneſs to be written by him; but the Jury were directed to believe it by comparing it with other Writings of his: And beſides that Paper ſo produced, there was but one Witneſs to prove any Matter againſt him, and by a partial and unjuſt Conſtruction of the Statutes of Treaſons was moſt unjuſtly attainted. And then the Act reverſes the Attainder.* Surely, if the Nature of the Evidence we have given, to prove this Paper to be the Priſoner's Hand is conſider'd, it ſtands clear of any material Objection that can be raiſed from that Act. This is not barely proved by a Compariſon of Hands; here is a Witneſs, that often ſaw him write, ſwears it to be his Hand-writing: There was a Multitude of Papers, ſome offered to be proved by Similitude of Hands, and every one of them was read in my Lord *Preſton*'s Caſe.

Beſides, here is that, which I beg Leave to inſiſt upon, as a Confeſſion by Mr. *Layer*, that this Paper was his Writing; if the Queſtion propoſed to the Priſoner by the Lords of the Council and his Anſwer are conſider'd, it amounts to a plain Confeſſion of it; therefore we muſt inſiſt on it, that we have given a ſufficient Evidence for the Reading of this Paper; and I hope we ſhall have your Lordſhip's Direction that it ſhall be read.

[Here ſome other of the King's Counſel offered to ſpeak.]

L. Ch. Juſtice. If there was any Occaſion, you ſhould be heard; but there is no Occaſion.

It is proved by the Witneſſes that theſe Papers were in Mr. *Layer*'s Poſſeſſion, that he delivered them to Mrs *Maſon*, that ſhe lock'd them up in her Trunk, ſealed as they were delivered to her by Mr. *Layer*, and afterward taken out of her Trunk by the Meſſengers, ſo that if they reſt it here, and no other Evidence had been given, the Papers ought to be read, as being his Papers, which he once had in his Poſſeſſion, if nothing elſe had been in the Caſe.

Can any Thing in the World be an Authority more expreſs, than that of my Lord *Preſton*, where all the Papers which were in his Cuſtody, and taken out of his Cuſtody, were read without any Offer of Proof that they were his Hand.

And then conſider, this goes further; it is not only a Paper found in his Cuſtody, but it is a Paper written with his own Hand! How do you prove that?

The Maſter of this Gentleman tells you he was his Clerk, lived with him two Years; afterwards he received Letters from him about Buſineſs, which Buſineſs he did according to the Direction of thoſe Letters, and was paid honourably by him for it, and that he believes it to be his Hand. If they had gone no further, nobody could have doubted, but that according to the uſual Courſe and Rule of Evidence it ought to be read. Then they make an Objection, and ask how long it is ſince he was his Clerk? Why about 14 or 15 Years ago: His Hand may be alter'd in that Time very much; therefore how can you ſwear it, when it is ſo long ſince, that it is his Hand? Why, ſays he, becauſe I have received Letters from him five Years ago; I dealt for him as his Agent, this Gentleman, Mr. *Layer*, was my Client, he ſent Letters to me, and the Characters of the Letters I have compared with this Paper, and from hence it is I believe that his Character is not changed. How do you know he writ thoſe Letters? I anſwer'd thoſe Letters, and they were about Buſineſs which I did for him, and afterwards he paid me very honourably for it; and therefore I believe they were his Writing, and therefore I believe he hath not changed his Character, and upon the Whole Matter, ſays he, I verily believe it to be his own Hand-writing, Conſider, this is confirmed by his own Confeſſion; but if it had been an independent Evidence, it is an Evidence ſufficient for to have had this Paper read; becauſe if a Man ſays, he verily believes it to be his Hand-writing, it is always allowed to be read. You did ask him, but upon what Grounds do you believe his Character is not changed? Why, ſays he, I do principally believe

lieve it from the Letters I received from him, which I ſhould have doubted on the Hand, which he writ fourteen Years ago, whether it was changed or not, and I believe it is not changed, becauſe it is agreeable with the Characters he writ, when he was my Clerk; and, upon the Whole, I believe it to be his Hand-writing.

Then they tell you of an Examination of this Gentleman before the Lords of the Council, when they asked him about Arms, he knew nothing of them; then they ſhew him this Paper, and ask him, How came you in a Scheme, all of your own Hand-writing, to ſay, Arms that are provided? What was more natural than for him to ſay, here is a Paper that doth mention it, I deny it to be my Hand-writing? But he was ſo far from denying it, that, as the plain Senſe and Import of the Words ſpoken muſt be underſtood, he owns it to be his Hand.

It is a Miſtake, ſays he, I ſhould have writ which ſhould have been provided.

How ſhould he have writ that, if he had not writ the other.

So conſidering the whole Contexture of the Buſineſs, and Courſe of Proceeding, it is, and I believe none can doubt it, as plainly proved to be his own Hand-writing, as if he had ſaid in ſo many Words, it is my Hand-writing. It muſt have been read as a Paper found in his Cuſtody. The other Evidence, that is given to the Jury, will be a Matter proper for their Conſideration; but if that Evidence had not been, they muſt have been read; they offer that as of greater Import, becauſe it is of the Priſoner's own Hand-writing.

You tell us of the Lady *Carr*'s Caſe, which was an extraordinary Caſe, when ſhe in her Anſwer in Chancery ſwore that it was not her Hand, they come to convict her of Perjury, by proving it to be her Hand by a Letter they produced.

Gentlemen, There is no Pretence to make this a Queſtion. Do you think that the Paper, which you offer, ſhall convict this Woman of Perjury? No, when ſhe had ſworn it was not her Hand, they come to prove it by a Witneſs, that ſays he believes it to be her Hand, becauſe they produce a Letter, which they ſay is her Hand. Upon this the Court determines that this Evidence ſhould not be allowed, that is, that it could be of no Conſequence to falſify any Matter, which ſhe had declared upon Oath.

But as this Caſe is, ſure there is not the leaſt Doubt but if the Proof of his Hand had been out of the Caſe, it muſt be read as a Paper, that was in his Cuſtody, and taken out of the Cuſtody of one, with whom he had depoſited it, which is proved beyond all Contradiction.

And in Caſe of my Lord *Preſton*, and in a thouſand Caſes, it hath been ſo, and never was denied.

True; if they come and ſay, Is this his Hand? and the Witneſs ſays I don't know whether it is his Hand or no; I have ſeen ſomething of his Hand, and I don't know but it may be his Hand; it is not right; but the Witneſs muſt ground his Belief ſtronger; I have ſeen him write, and I know his Writing; therefore I believe it to be his Hand. If they had reſted it on that, that the firſt Evidence knew his Hand fourteen Years ago, that muſt be left to the Jury, whether they believe Mr. *Doyley*'s Evidence; becauſe, ſays he, I ſaw him write fourteen Years ago. The Poſſibility of that, if there was nothing elſe in the Caſe, might be left to the Jury, whether that Evidence was ſufficient to ſatisfy them, that it was his Hand. Upon the Whole, never was any Thing clearer than that this muſt be read as a Paper found in his Cuſtody, that hath in the uſual Manner and Method the Proof of being his Hand-writing.

Priſoner. If I am out of Time I beg your Lordſhip's Pardon; I will not take up your Lordſhip's Time; I only beg a Word or two; whether there is any legal Evidence as to the Publiſhing; the Indictment ſays, *publicavit quoddam malitioſum ſeditioſum & proditorium ſcriptum*, and that is not that, that is the Declaration.

L. Ch. Juſtice. Whatever you ſay or offer, altho' it happen to be out of Time, we will diſpenſe with you, when out of Time; but what you offer now is upon a Miſtake, we are not upon the Paper you ſhould apply it to, that is, the Matter of your Declaration, but we are upon the Scheme Paper, not whether you publiſhed it, but whether you writ it.

Priſoner. I am charged in the Indictment as publiſhing a malitious, ſeditious and traiterous Writing.

L. Ch. Juſtice. You are charg'd with that as an Overt-Act of the Treaſon, of Compaſſing and Imagining the Death of the King; that you did publiſh a malitious, ſeditious, and traiterous Paper, that is the Matter of the Declaration. The Matter now is, not for Publiſhing, but whether there is a reaſonable Proof given that it is your Hand-writing.

Mr. Juſt. *Powys.* This is only a Circumſtance, not an Overt-Act ſufficient to convict you.

Mr. *Soll. Gen.* My Lord, we offer this Paper as a ſtrong Evidence corroborating and confirming every Thing which hath been ſworn by the Witneſſes, and we pray it may be read.

Mr. *Hungerford.* I was reading the Act of Parliament when they ——

Mr. *Soll. Gen.* My Lord, we muſt beg leave to inſiſt upon the Courſe of Proceeding, that the Counſel ſhall not go on to argue a Point, after the Opinion of the Court has been given.

L. Ch. Juſtice. Now you have heard the Opinion of the Court, you muſt not go on.

Mr. *Hungerford.* I was looking upon the Act of Parliament ——

L. Ch. Juſtice. You remember *Francia*'s Caſe, there was a Letter taken up at his Bed-ſide, it was diſputed whether that ſhould be read, at laſt a Witneſs came and ſaid, I have ſeen him write ſeveral Times, and I believe it to be his Hand; and it was read.

Mr. *Hungerford.* Ay, haſtily read.

Clerk of the Crown reads the whole Scheme.

The SCHEME.

Au défaut de la force, il faut employer la ruſe.

1. LET the General, and only one Officer of Note in the Camp, agree upon a Day for Execution.

2. Let the Officer that Day put himſelf on the *Tower-Guard.*

3. And as there is eight Serjeants (*viz.*) three of the firſt Regiment of Foot-Guards, three of the Second, and two of the Third, all ready at an Hours warning to obey Orders; early that Morne, let the Officer ſee a ſingle Perſon, namely *George Wilſon*, who manages theſe Serjeants, and give him Directions to bring them all to ſome convenient Place at four that Afternoon.

4. Then the Officer muſt give each Serjeant Money ſufficient for the Purpoſe, and direct 'em, that each Serjeant order twenty-five Men (making together 200, which they have ready) to go ſingly out of the Camp, and meet together at Church-yard, exactly half an Hour paſt eight in the Evening, when and where another *Officer* that they know, muſt meet 'em, and take the Command, give 'em Muskets ready loaded, and March with them in a Body to the *Tower-Gate* at 9 that Night exactly.

5. Our Friend, the Officer within, muſt preciſely at that Hour of 9 be on the Guard at the *Tower-Gate*, and ſeeing this Body of Men appear, order the Garriſon to let 'em in, as a Recruit ſent to the *Tower-Guard.*

6. As ſoon as ever they have entered to ſeize the Arms at the *Tower-Gate*, ſhut the Gate up, and ſecure every one in the Tower, that the Officer on Guard gives them Orders to ſecure, but not to ſhed any Blood.

7. The *Tower* being thus ſeized, to leave only a ſmall Guard there under that Officer who lets 'em in, and then, with all thoſe that join you, march directly to the *Exchange*, where the great Doors muſt be ready opened, and the *General* there in Perſon.

8. At the exact Hour of 9, that the *Tower* ſhall be thus ſeized, the Perſons of ſome great Men to be arreſted *at their Houſes*, brought directly into the City, and delivered to the General.

9. That upon our Meeting at the Exchange, the annexed Proclamation to be ſpread about, the Gates of the City to be ſhut up, and Pieces of Cannon brought down againſt 'em, but every Man that deſires to enter the Gates, before any regular Force appear, to be admitted to come in, and after the General has appointed a Guard at each Gate, and Inlets of the City, with proper Officers to command there; let him march back to *Tower-Hill*, for a Place of General Rendezvous under

der the Cannon of the *Tower*, and Order the Lord Mayor a good Guard to watch over the *Bank*, but firſt take Money from thence to the *Tower*, in order to pay the Men.

10. That on the Morne of this ſame Day, our General to have an Interview with ſome other *principal* Officer of the Camp, and order him to engage all Friends to attend at their reſpective Poſts, and expect a * Token to be ſent to each of them as that very Night, on receipt of which Token they are to draw their Men out and march directly to the *Artillary in the Camp*, as a Place of General Rendezvous; and that the Captain of the Artillary may not be alarm'd, let this *Principal Officer* previouſly ſend a Meſſage to him, that Orders are come from the General (*Cadogan*) to double the Guard of the Artillery, on a Rumour that is ſpread of the Mob being up in the City.

11. The Party being come to the Artillery with the ſaid principal Officer at the Head of 'em, let 'em immediately draw the Guns round 'em, and ſtand upon their Defence, without making any Declaration, until the ſaid principal Officer, who Commands in chief there, receives certain † Intelligence from our General that the *Tower* is ſeized upon, and the City all in Arms; and then under a Pretence of ſecuring the King's Perſon from the Inſults of the Mob, let this Officer make a Detachment to take him into Cuſtody, and ſend him into the City to the General at the *Tower*.

12. To facilitate theſe Proceedings, let the General the ſame Day ſpeak to the *Horſe Officers* in the Camp, who he knows to be our Friends, and upon the very firſt Alarm of the City's having revolted, let 'em march their Men to either *Ludgate* or *Newgate*, on pretence to ſuppreſs the Mob; and when they are at the Gate, as a Token of their being Friends, let the Watch-word be *This Morning*, and upon giving us the Word there, to ope the Gates and let 'em in, and as ſoon as they are entered, to march directly to *Tower-hill* and join themſelves with the General there.

13. Let the General alſo the ſame Day, order 4 of the Half-pay Captains to take upon 'em the following Commands, (*viz.*)

14. Firſt Captain to go into *Southwark*, and exactly at the Hour of 9, to make a Bonfire in the Fields there, and give ſome Money among the Mob, and when you have got a Number together, ſend an Account to the General, take the Arms that muſt be lodged there, and diſtribute out amongſt 'em to your Acquaintance in the firſt Place, and to thoſe which they recommend, and then iſſue out the Declarations, and after the Receipt of a Token from the Captain next mentioned, who is to command in *Palace-yard*, to ferry over thither in Lighters, with the Watch-word *This Morning*, and join the Captain in *Palace-yard*. *Privy-Garden*

15. Second Captain exactly at the Hour of 9, to be in ~~Palace-yard~~ adjoining to *White-hall*, with a few Gentlemen armed, and ſeize upon the great Guns there, and then ſpread the Declarations, and ſtay there under the Cannon till a greater Body join you from *Southwark*; or otherwiſe nail up the Cannon, and march directly to the next Captain in *St. James's Park* with the Watch-word *This Morning*, and then ſend the Token, as above, to the firſt Captain in *Southwark*, and let the Meſſenger you ſend, conduct him and his Men to you in *St. James's Park*.

16. Third Captain, at the ſaid Hour of 9, to go into *St. James's Park*, with the Key that is given you of the private Door out of *Arlington-ſtreet*, and appoint only ſome few Gentlemen to meet you there exactly at that Hour and ready, one to have the Watch-word you give 'em, which muſt be *This Morning*. Let your firſt Rendezvous be at the little Grove under the Wall near the Gate leading to *Hyde-Park*; and there you'l meet Fire-Arms ready charged. Then march down to the Parade next the Horſe-Guard, and ſeize upon the Cannon there, and Ammunition in the Store-houſe, and the better to ſecure *St. James's Park* for a Place of general Rendezvous, you ſhall have an Officer out of the Camp exactly at the Hour of 9 come to your Aſſiſtance with ſome Men, as he and you ſhall agree in the Morne of this Day, and as ſoon as you have ſeized the Cannon here, and Ammunition aforeſaid, you are to put your ſelves in a Poſture of Defence, and publiſh the Declaration, and ſend forthwith to the General at the *Tower* to let him know of your Situa-

tion,

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* *It may be a Note in Writing thus, Sir, I'll meet you at 9 to Night, don't fail me.* J. S.

† *A verbal Meſſage by a third Perſon that muſt be by, when the General and this Chief Officer conſult together in the Morne.*

tion, and alſo ſend to the Captains in *Palace-yard*, *Southwark*, and *Tuttle-fields*, that they immediately come and join you.

17. Fourth Captain, exactly at the Hour of 9, the Evening of the ſame Day to be in *Tuttle-fields*; raiſe the *Weſtminſter* Mob there, and with the Arms that are there *lodged*, equip 'em as you can; publiſh the Declarations, and march directly to *St. James's Park* and join with 'em there, who, on your giving 'em the Watch-word, are to admit you into the Park.

18. So here being two Bodies of Men thus gotten together the firſt Night, *viz.* One on *Tower-hill*, and the other in *St. James's Park* (beſides our Friends at the Artillery in *Hyde-Park*). The next Morning, if not ſooner, let our *General* order a Detachment to *Lincoln's-Inn Fields*, and ſome Cannon to be placed on the Terras of the Garden there, leſt the Enemy come in there between *St. James's Park* and the City.

19. A proper Captain muſt be appointed to head the Watermen belonging to the *Thames*, and previous to the Day of Execution, he muſt agree with the Duke's Bargemen, that upon the leaſt Notice to be given 'em, that they alarm all the Watermen, and bring 'em to a Rendezvous the ſame Hour of 9 that Night of Execution, and this Captain's Rendezvous muſt be at *Greenwich*, where he muſt ſeize the Magazine of Powder, and take out ſuch part of it as each Man will carry, then blow up the reſt, march from thence to the *Tower*, and join his Men with the General there, to whom he muſt firſt ſend a Meſſenger with the Watch-word, and an Account of his Numbers.

20. Some Time before Execution, the General to ſend a Meſſenger to particular Men in the Country, that they riſe in their reſpective Countries upon the firſt News of what is done here. ——

21. An Officer, *&c.* to go to *Richmond*, and at the exact Hour of Nine to ſeize upon Prince *Pritty Man*, and bring him away to *Southwark* to ſome particular Place appointed, where an Agent from the General muſt meet 'em with his further Orders.

Mr. Serj. *Pengelly*. We read this as an Evidence that cannot be miſtaken, which is all of his own Hand-writing.

Mr. *Attorn. Gen.* My Lord, we apprehend that this confirms what both the Witneſſes have ſworn.

Mr. Serj. *Pengelly*. We ſhall now produce ſome Receipts ſubſcribed by the Name of *James* R. and pray that they may be read, theſe were likewiſe among thoſe Papers, as hath been proved in the Manner you have heard already.

Clerk of the Crown reads one of them.

I *Acknowledge to have received from*

the Sum of

which Sum I promiſe to repay with an Intereſt for it at the Rate of per Annum

James R.

L. Ch. Juſtice. They are not read as if proved, the Hand is not proved, but as Papers found on him.

Mr. *Sol. Gen.* In my Lord *Preſton*'s Caſe, his Lordſhip was taken in the Hold of a Ship lying upon the Ballaſt, and *Aſhton* there near him, and between his Lordſhip and *Aſhton* was found lying alſo on the Ballaſt, a Pacquet of Papers, which *Aſhton* ſnatch'd up and put into his Boſom, from whence they were preſently taken; two Seals, which appeared to be my Lord *Preſton*'s when he was Secretary of State, were found lying near to the Papers. Upon this Proof thoſe Papers were read as Evidence againſt my Lord *Preſton*, without any Proof made of their being his Hand-writing, in order to the Reading of them.

Mr. *Hungerford*. My Lord *Preſton* was taken on board a Ship going to *France*, then in War with *England*, theſe Papers were found in the Boſom of Mr. *Aſhton*, who was going with him; my Lord endeavoured ſo far as he could to throw them over-board: The Offence did not turn upon the Papers being writ by my Lord *Preſton*, or not; in my Lord *Preſton*'s Caſe the Papers contained a Diſcovery of the Con-

Condition of the Fleet and Garriſons of *England* to *France*, in order to enable *France* to invade us; it ſignify'd nothing who writ the Papers, the Crime was the having them, knowing the Contents of them, and endeavouring to carry them to *France*, ſo the Circumſtances of my Lord *Preſton* widely differ from this.

Mr. *Ketelbey*. I beg leave to mention another Thing, there the Papers were found in the Cuſtody of my Lord *Preſton*, here they were found in the Cuſtody of a third Perſon, whoſe Evidence we ſhall controvert by a Number of Witneſſes when it comes to our turn. I believe it will appear that ſome of the Papers were found on the Table in my Lord *Preſton*'s Caſe, and others taken out of his Pocket.

Mr. *Sol. Gen.* No, they were firſt found lying on the Ballaſt.

Mr. *Ketelbey*. What were found on *Aſhton*, and taken out of his Boſom, were ſeen lying on the Ballaſt, but there were other Papers ſeiſed at that Time.

Mr. *Soll. Gen.* They were the ſame Papers that were afterwards taken out of *Aſhton*'s Boſom, which were read as Evidence againſt my Lord *Preſton* upon the Circumſtances I have mentioned.

Mr. *Ketelbey*. As I remember, ſome of them were found on the Table in the Cabin.

Mr. Juſt. *Eyres*. No, they were found on the Ballaſt in the Hold of the Ship.

L. Ch. Juſtice. You ſay that they were found in my Lord *Preſton*'s Poſſeſſion, and not in the Poſſeſſion of *Aſhton*; you ſay my Lord *Preſton* had no Counſel, but you know 'tis the Duty of the Court not to ſuffer any Thing to be read in Evidence that ought not. You ſay you ſhall controvert this Matter, and give an Anſwer to it, and that it appears they were not in his Cuſtody, they were taken out of this Witneſs's Cuſtody, and under his Seal, and therefore the Difference it makes is nothing at all. Beſides, the Proof in my Lord *Preſton*'s Caſe, is not ſo ſtrong as the Proof of the Scheme againſt the Priſoner, becauſe the Scheme is proved to be his own Hand-writing, which was not in the Caſe of my Lord *Preſton*.

Mr. *Ketelbey*. My Lord, will not your Lordſhip think it neceſſary that they give further Evidence that they are his Papers, before they are read.

L. Ch. Juſtice. Read them.

Clerk of the Crown reads. I acknowledge to have received, *&c.* here *are ten of them*, that are the ſame.

Mr. Serj. *Pengelly*. Mr. *Stanyan*, do you remember whether any Queſtions were ask'd him with relation to theſe Receipts?

Mr. *Stanyan*. What I recollect is this: Upon the Lords asking Mr. *Layer* the meaning of thoſe Receipts ſigned by the Pretender, and what Uſe he made of them, he ſaid, that during the Time he was at *Rome*, he had ſettled a Correſpondence with Sir *William Ellis*, and ſome Time afterwards he writ to Sir *William Ellis* according to the Directions he gave him, and he told him, if he could ſend any Receipts ſigned by his Majeſty, or the King, as he call'd him, he thought Money might be rais'd upon them for carrying on the Cauſe, theſe were the Words; as near as I can remember.

Mr. *Attorn. Gen.* Mr. *Delafaye*, was you by?

Mr. *Ketelbey*. It was for raiſing of Money to carry on his Cauſe, you mean Sir *William Ellis*'s Cauſe.

Mr. *Stanyan*. No, Sir.

Mr. *Hungerford*. He acknowledged to have received them from Sir *William Ellis*.

Mr. *Stanyan*. Yes.

Mr. *Ketelbey*. You ſaid he own'd he had them from Sir *William Ellis*, having ſettled a Correſpondence with him, that Money might be raiſed by theſe to carry on his Cauſe; he told you he had Buſineſs to do for Sir *William Ellis*.

Mr. *Stanyan*. No. I know nothing of Sir *William Ellis*'s Buſineſs, but that he had appointed to correſpond with Sir *William Ellis*, and Sir *William Ellis* gave him his Addreſs, how to direct to him, and he acknowledged to have received a Letter or Letters from Sir *William Ellis*, in the Name of *Jones*, and that he writ to him in Anſwer to 'em.

Mr. *Ketelbey*. Are you ſure as to thoſe Words, or only to the Purport of 'em?

Mr. *Stanyan*. I think they are near the Words, but I am ſure they are the Purport of them.

Mr. *Ketelbey*. Was it reduc'd into Writing?

Mr. *Stan-*

Mr. *Stanyan.* It was reduced into Writing in this Manner. It was a very long Examination, about 4 or 5 Hours.

Mr. *Ketelbey.* I ask you, Whether it was reduced into Writing?

Mr. *Stanyan.* Yes it was; the Lords ſent to me, to aſſiſt Mr. *Delafaye*, upon Mr. *Layer's* being Examined. Mr. *Delafaye* took the Heads of the Queſtions propounded; and I ſate near the Table, look'd over Mr. *Delafaye*; attended to the Queſtions and Anſwers; ſo that we could ſet one another right when we came to conſider them.

Mr. *Ketelbey.* This you wrote, was it read over to the Priſoner?

Mr. *Stanyan.* No.

Mr. *Ketelbey.* Do you believe the Priſoner at the Bar ſaw you write?

Mr. *Stanyan.* Yes, I believe he ſaw us write.

Mr. *Ketelbey.* Do you believe he thought any Perſon was taking his Confeſſion in Writing?

Mr. *Stanyan.* I think it cannot be otherwiſe.

Mr. *Ketelbey.* I aſk you, Do you believe that Mr. *Layer* knew that you was taking his Confeſſion at that Time?

Mr. *Stanyan.* The Lords ſpoke thus; *Pray take Notice*, and then take down ſuch a Thing, and ſuch a Thing; and I believe Mr. *Layer* heard them ſay, *Take down that, and take down that.*

Mr *Ketelbey.* Was it ever known for one to take the Queſtions, and the other the Anſwers; and then to compare them together, in Order to make a Confeſſion?

Mr. *Stanyan.* No. Mr. *Delafaye* wrote down the Queſtions and Anſwers.

Mr. *Hungerford.* How was the Poſition of Mr. *Layer*, with Reſpect to you; was your Back, or your Face towards him?

Mr. *Stanyan.* It was on one Side.

Mr. *Hungerford.* Was you in the Room when Mr. *Layer* came in firſt?

Mr. *Stanyan.* I was, I called in Mr. *Layer* by the Lords Order.

Mr. *Hungerford.* Was it ever read to him?

Mr. *Stanyan.* No.

Mr. *Hungerford.* Was it drawn up in Form, ſo that you might call it an Examination?

Mr. *Stanyan.* I will tell you what we underſtood by it; it was the Minutes of an Examination to be drawn out in Form: but the Lords finding Mr. *Layer* not ſo candid and ingenuous as they thought he would have been, did not ask him to ſign it; and we only make uſe of it to refreſh our Memories.

Mr. *Ketelbey.* He calls it an Examination, and it appears by what Mr. *Stanyan* ſaith, that he and Mr. *Delafaye* took it; one takes one Part, and the other takes another Part.

Mr. *Sol. Gen.* He did not ſay any ſuch Thing.

Mr. *Ketelbey.* His Confeſſion was never read over to him.

Mr. *Sol. Gen.* Mr. *Stanyan*, when the Lords directed Mr. *Delafaye* and you to write this or that particular Thing, was the Priſoner ſo near, that in your Apprehenſion, he might hear their Lordſhips give ſuch Directions?

Mr. *Stanyan.* Yes, he was.

Mr. *Hungerford.* Sure they are not contending, that any Confeſſion ſhall affect a Man, unleſs it was read to him; and it ought to be ſigned by him: My Lord, the Man is no Way anſwerable for any Thing taken in Writing, without his Conſent or Privity, in a Criminal Caſe. It is called Minutes of an Examination, which they might enlarge as they pleaſe; therefore we humbly ſubmit it to Your Lordſhip, whether it ought to be offered in Evidence at all as a Confeſſion.

Mr. *Ketelbey.* What will be the Conſequence, if this be allowed here? Is a Perſon to be Convicted of Treaſon upon a Confeſſion taken, without its being read to him, and without his ſigning it? A Confeſſion to a Juſtice of Peace, in Caſes of Felony, unleſs read to the Party, and ſigned by him, muſt not be given in Evidence.

Ld. Ch. Juſt. Mr. *Ketelbey*, you ſeem to miſtake what it is that is contended for by the King's Councel; they are not going to offer any thing to be read in Evidence: Your Objections would prevail, if they were going to read a Confeſſion as Evidence, which was neither read to him, nor ſigned by him; but if there is no Examination reduced into Writing, and ſigned by the Party,

the Conſequence of that is, that the Witneſs is at Liberty to give an Account of what was ſaid; and he may look to his Notes to refreſh his Memory: If you will ſay, it is not ſo great an Evidence, of ſo great Weight, as an Examination taken, and ſigned by the Party; you are right, it is not: If ſo, there is no Room to ſuppoſe any Miſtake; but becauſe it is not reduced into Writing and ſigned by the Party, there is ſome Room left, ſome Foundation to ſuppoſe the Evidence may be miſtaken.

He ſays, he was Examined before the Lords of the Council; and he took Minutes of his Examination: And afterwards to refreſh himſelf, he looks upon them, and ſays, he believes that is the Subſtance of what he Confeſſed at that Time. You ſay, there is no Precedent for it; for God's Sake! recollect your ſelf, it is every Day done at the *Old-Bailey:* If a Perſon Confeſſeth, and it be not in Writing, they do prove his Confeſſion, *Viva Voce.*

Mr. *Sol Gen.* My Lord, *Coleman*'s Caſe, which was during the Time that Sir *William Jones* was Attorney General, went further than this: There his Letters were laid in the Indictment, as the very Overt-Act of the High Treaſon charged againſt him; and yet one of thoſe Letters was proved by his Confeſſion, upon an Examination before a Committee of the Houſe of Lords; and that Confeſſion was proved, *Viva Voce,* by Sir *Phillip Lloyd.*

Mr. *Ketelbey.* Whether that Caſe ſhall be a Precedent? I never heard it ſo reckon'd;

Mr. *Hungerford.* And I hope it never will be one.

Mr. *Delafaye* ſworn.

Mr. *Serj. Cheſhyre.* Mr. *Delafaye,* Pray give an Account what Mr. *Layer* declared before the Lords of the Council concerning theſe Receipts.

Mr. *Delafaye.* The Account he gave ——

Ld. Ch. Juſt. Mr. *Delafaye,* you was preſent at the Time of taking this Examination; you ſay, you took Minutes in Writing; you have told us the Reaſon why it was not in Form, and read to Mr. *Layer*: If you have not already done it, you may look to your Minutes, and refreſh your Memory. That which the Court demands of you is, what Mr. *Layer* did Confeſs at the Time of his Examination before the Lords of the Council.

Mr. *Delafaye.* He told the Lords, that he did write to Sir *William Ellis,* that he would ſend over ſome blank Receipts under the King's own Hand, that might be made Uſe of, for the carrying on his Cauſe: That he did receive ſuch Receipts, and his Intention was to have tried his Friends; and to have raiſed Money on thoſe Receipts.

Mr. *Serj. Cheſhyre.* Did he give any Reaſon why he went into that Method?

Mr. *Delafaye.* For a Precedent, he ſaid, a little before the Reſtoration of King *Charles* the Second, a Method of this Kind had been uſed.

Mr. *Att. Gen.* My Lord, we ſhall now proceed to read the Letters that were ſent and paſs'd between them, Sir *William Ellis* and Mr. *Layer* But it will be proper firſt to lay before you the *Cyphers* which they made uſe of to explain ſeveral cant Words and Expreſſions, which they us'd in their Letters.

Ld. Ch Juſt Were the *Cyphers* found among Mr. *Layer*'s Papers?

Mr. *Att. Gen.* Yes, my Lord.

Mr. *Serj. Cheſh.* Pray read No. 38.

Mr. *Att. Gen.* I don't know whether we ſhall trouble your Lordſhip to read the whole *Cypher*; it is very long, but when we meet with a Word in the Letters which wants Explanation, we may have Recourſe to the *Cypher.* ——Read the Letter No. 38.

Cl. of the Cr. reads. This Letter is ſign'd *Euſtace Jones,* &c.

Dear SIR,

Received with a great deal of Pleaſure and Satisfaction, a Letter of the 24th *of* November, *from my worthy Friend, with an Account of his ſafe Arrival; of which I was in ſome Doubt before, and in no ſmall Pain on that Account: I eaſily conceive, he muſt needs have had a great deal of Buſineſs on his Return, as well of his Unkle's as of his own, and therefore, I don't think much that I heard no ſooner from him, believing he was much better imploy'd, and that Buſineſs is to be preferr'd before Compliment.*

I was entirely of his Opinion, as to the Method of carrying on the Manufactory; *the procuring of good* Workmen, *is the firſt Step to be made, and if he can get*

ſuch

ſuch, the reſt will be eaſy; and particularly, if he could gain ſome of the ableſt of Mrs. Barbara Smith's, *I know it would be very agreeable to all concern'd, and particularly to Mr.* Atkins, *to whom he ſpoke of Writing; and which, I am ſatisfied, will be very acceptable: And if he thinks fit to incloſe it to me, I ſhall convey it ſafely to his Hands, who, I find, was very glad to hear of him, counts very much upon his Friendſhip, and hopes for the Continuance of it.*

I made his Compliments to Mr. Timothy Watſon's Wife, *who took them very kindly, and returns hers, with her moſt humble Service. She and her Charge are very well, God be prais'd, as are alſo all Friends here.*

He having read over ſeveral times the Paper I ſhew'd him, and having a good Memory, I don't think it neceſſary to ſend a Copy of it.

I am with great Eſteem and Reſpect, ever moſt entirely;

Dear SIR,

Your moſt affectionate,
moſt humble and moſt
obedient Servant.
Euſtace Jones.

30th *January.*

For *James Fountain*, Eſq; to be left at *Howell's-Coffee-Houſe*, in great *Wild-Street*. LONDON.

Mr *Att. Gen.* Your Lordſhip is pleas'd to remember, Mr. *Stanyan* ſaid, that Sir *William Ellis* was to write by the Name of *Jones*.

Mr *Stanyan.* My Lord he did ſay, that he had received a Letter ſince he had ſettled a Correſpondence with Sir *William Ellis* ſubſcribed by the Name of *Jones*.

Mr. Att. Gen. In the *Cypher* that Sir *William Ellis* is called *Jones*.

Cl. of the Cr. reads, this Letter is ſigned *Euſtace Jones*, dated 30th *January*, no Year, *Dear Sir, I receiv'd, &c.*

Mr *Att. Gen.* Your Lordſhip will be pleas'd to obſerve the Expreſſions in this Letter, the procuring good *Workmen*: Now look into the *Cypher*, and *Soldiers* are meant by *Workmen*; Manufactory is not in the *Cyphers*, but I don't know for what Manufactory they wanted *Soldiers*, unleſs to raiſe a Rebellion. The Ableſt of Mrs. *Barbara Smith's*; look for *Army* in the *Cyphers*, and you will find, that is ſignified by *Barbara*, it will be very acceptable to all concern'd; and particularly to Mr. *Atkins* in the *Cypher*, that is, *the Pretender*, Compliments to Mr. *Timothy Watſon's* Wife; Look in the *Cyphers*, and *Timothy* ſtands for *Hughes*, whoſe Wife is Nurſe to the *Pretender's* Child. This Letter is directed for *James Fountain*, Eſq; to be left at *Howell's-Coffee Houſe* in great *Wild-Street*, and I obſerve, Mrs. *Maſon* ſaid the Priſoner went by the Name of *Fountaine* —— No. 10 are Six fictitious Names, and the Key to 'em: Read it.

Cl. of the Cr. reads No. 10.

Digby —— *Dillon.*
Orery —— *Burford.*
Regent —— *Steel.*
Tories —— *Tanners.*
Wiggs —— *Waggs.*
Rogers —— *Plunkett.*

Mr. *Att. Gen.* Read the Letter No 40.

Cl. of the Cr. reads, ſign'd *N. C.* Dated the 11th *July* 1722.

The 11th *July*, 1722.

Dear SIR,

I Receiv'd with all poſſible Satisfaction your moſt affectionate Letter of 8th May *with its incloſ'd, which was preſently delivered to Mr.* St. John, *who took it extream kindly; but could not well* underſtand what relates to Mr. Burford; *he hopes, your Anſwer to what I writ, in the beginning of laſt Month, may ſoon clear that: You will have ſeen, by what I then told you, that the former came ſafe to his Hands, and the Reaſon of your not having had a diſtinct Anſwer to it: He had the Stockins you ſent for him, and returns you many Thanks for them; as alſo for all other Marks of your Affection and Concern for him and his, and will be ready to ſhew his Senſe thereof on all Occaſions. I am in earneſt Expectation of hearing ſoon again from you, and am, with all poſſible Affection and Eſteem.*

Dear SIR,

Your moſt faithful and
moſt humble Servant.
N. C.

For *James* [illegible], *Eſq*; to be left at *Howell's-Coffee-Houſe* in great *Wild-Street*. LONDON.

Ld:

Ld. Ch. Juſt. Who is that N. C?

Mr. *Att. Gen.* My Lord, we do not know, it is directed to *James Fountain*, Eſq; *Mr. St. John* in the *Cypher* ſignifies the *Pretender*.

Mr. *Soll. Gen.* Mr. *Burford* appears to ſtand for my Lord *Orrery* in the little *Cypher*.

Mr. *Hungerford.* Look into the Paper, pray what do Stockings ſtand for?

Mr. *Soll. Gen.* Read the Letter No. 41.

Cl. of the Cr. This is dated the 27 *May*, it is ſign'd by no Body, nor directed to any Body; The Cover is off: *I receiv'd with a great, &c.*

Dear SIR, 27. *May.*

I Receiv'd with a great deal of Pleaſure, the Favour of your moſt obliging Letter of 22d March, *with an incloſed for our Friend, who was very glad to hear from you; and is very ſenſible of, and takes very kindly, the Care you take of his little Concerns there; but ſays, he doth not ſufficiently underſtand the State you ſent, ſo as to be able to make a particular Anſwer, till you ſhall further explain it; there being ſome Tenants, mention'd by you, whoſe Names he does not find in the Rental,* as Burford, Steel, Digby, the little Soldier, and Simmons; *the latter, he believes ſhould be* Simmes, *he is of the North, a grey hair'd ancient Man,* whom *he very well remembers, and has a particular Eſteem and Value for, as a very good Tenant, and a very honeſt Man.*

All Friends here are in perfect good Health, God be thanked, and remember themſelves kindly to you, and I am moſt entirely, Yours, *&c.*

Mr. *Soll. Gen.* If you look into the *Cypher*, you will find *Rental* ſtands as the fictitious Name for the *Cypher* itſelf; *Burford* ſtands for the Lord *Orrery*, *Steel* for the *Regent*, and *Digby* for *General Dillon*.

Simmons, he believes ſhould be *Simmes*, but *Simmons* in the large *Cypher* is put for *Lord North and Grey*, and who is meant, appears pretty plain from the Cant which follows. *He is of the North a grey hair'd ancient Man, whom he well remembers, and hath a particular Eſteem and Value for, as a very good Tenant and a very honeſt Man.*

Mr. *Att. Gen.* Look for *Simmons* in the Cypher.

Mr. *Hungerford.* I can make one Obſervation, that Mr. *Harcourt* is very ready at it.

Cl. of the Cr. It is Alphabeted, ſo that it is eaſy to look for it.

Ld Ch. Juſt. What Uſe do you make of theſe Letters?

Mr. *Sol. Gen.* The Uſe we make of them is to ſhew, that Mr *Layer*, who took on him the Sham-Name of *Fountain*, by which Name ſome of theſe Letters are addreſſed, had a Correſpondence with the Friends of the *PRETENDER* at *Rome*. That this Correſpondence related to a Conſpiracy, which was form'd and carrying on here; and it appears, they took upon them to mention ſeveral Perſons of Diſtinction under a kind of Jargon.

Mr. *Att. Gen.* The firſt Letter, wherein is mentioned the carrying on the *Manufactory*, the procuring good *Workmen*, and particularly, if he could gain ſome of the ableſt of Mrs. *Barbara Smith's*, and that it would be very agreeable to all concern'd, and particularly to Mr. *Atkins*, which is the Name for the *Pretender*; ſhews, that the Agents of the *Pretender* at *Rome*; had laid Deſigns to procure Soldiers, and thoſe, if poſſible, out of his Majeſty Troops; which falls in with the Evidence we have given of the Priſoner's Endeavours to get Soldiers and Serjeants out of the Army.

Mr. *Serj. Cheſhyre.* It may not be improper ſince we have explain'd it to lay before you the Liſts of ſeveral Perſons Names that are in the Army.

Pray read No. 7, out of the large Bundle.

Cl. of the Cr. reads a *Liſt* of Officers Names with Marks and Numbers to ſome of them.

Mr. *Att. Gen.* We did mention before, that there were the Names of ſeveral Perſons of very great Honour and Loyalty to his Majeſty in ſome of the Liſts; but this is to ſhew, that the Priſoner was conſulting how he might get an Account of the Number of the Forces; as, how many Colonels, how many Captains, and how many Soldiers there were in the Guards and other Troops of his Majeſty.

Read N°. 5 in the large Bundle.

Cl. of the Cr. reads, N°. 5. A Liſt of Officers of the Second, or *Coldſtream* Regiment of Guards.

Mr.

Mr. *Att. Gen.* We make the ſame Uſe of this to ſhew, that he was ſearching and examining to get an Account of the Guards.

Ld. Ch. Juſt. I ſuppoſe he is taking a Survey of the Perſons that were of the Guards, that he might be capable of making a Judgment.

Mr. *Att. Gen.* Yes, my Lord; and to know their Strength: Look out N°. 6. in the large Bundle.

Cl. of the Cr. reads N°. 6. A Liſt of Officers in the Firſt Troop of Horſe-Grenadiers, the Names being diſtinguiſhed by different Letters.

N°. 7. Out of the ſmall Bundle. A Liſt, *&c.* here are 11 of them put down.

Mr. *Sol. Gen.* Read N°. 8. in the large Bundle.

Cl. of the Cr. reads N°. 8. A Liſt, *&c.*

Mr. *Att. Gen.* Your Lordſhip will obſerve, that this is a Liſt of ſome Perſons Names, and the Numbers of Horſes and Men they were to provide.

Ld. Ch. Juſt. You'll have this to import an Account of what Quotas ſeveral Perſons were to find.

Mr. *Att. Gen.* The laſt was read for that Purpoſe: Read N°. 15. in the large Bundle.

Cl. of the Cr. reads N°. 15. Containing divers Names, with Numbers ſet againſt ſome of them.

Mr. *Serj. Pengelly.* Read N°. 20, 21, 22, 23 and 24, in the large Bundle.

Cl. of the Cr. reads N°. 20. Containing a Liſt of the Great Officers of the *Tower*; N°. 21, Containing Names of Officers of the Second Troop of Horſe-Guards, Second Troop of Horſe-Grenadiers; and Fourth Troop of Horſe-Guards. N°. 22. Containing a long Liſt of Names. N°. 23. Containing Names of Officers of the Firſt, Second, Third and Fourth Troops of Guards. N°. 24. Containing the Names of Two Officers of the Horſe-Guards.

Mr. *Att Gen.* Look upon that Liſt, N°. 21, whether there are not ſome private Mark upon it.

Cl. of the Cr. Yes, here is upon one of them a Dott, and on the other Side there is a Dott; and in two or three Places ſome Men mark'd and croſs'd.

Mr. *Serj. Cheſhyre.* Read N°. 25.

Cl. of the Cr. reads No. 25. Containing a Liſt of Officers, 5 of them marked to be *not bad.*

Mr. *Reeve.* Are the Words *not bad* of the ſame Hand-Writing?

Cl. of the Cr. Yes, it doth appear to me to be ſo.

Mr. *Serj. Pengelly.* Read the Title of No. 22.

Cl. of the Cr. Here are a great many Peoples Names, with Marks upon ſome, and none upon others: Upon one of them is writ *William Johnſon, to be gain'd.*

Mr. *Serj. Pengelly.* Read No. 27.

Cl. of the Cr. reads a Liſt of the Third Regiment of Guards; againſt ſeveral of which Names are Dotts and Marks.

Mr. *Serj. Pengelly.* Read No. 28

Cl. of the Cr. reads, A Liſt of the Officers of the *Coldſtream* Regiment of Guards; and a Liſt of the Officers of the *Scotch* Guards.

Mr. *Sol. Gen.* Read No. 35.

Cl. of the Cr. reads No. 35. A Paper, containing an Account of the Numbers of the Officers and Soldiers in the Firſt, Second, and Third Regiment of Foot-Guards.

Mr. *Serj. Pengelly.* My Lord, we beg Leave to ask Mr. *Delafaye* and Mr. *Stanyan* two or three Queſtions, to ſupport the Evidence of Mr. *Lynch* and Mr. *Plunkett*, in Relation to ſome particular Facts; whether at the Time of the Examination of Mr. *Layer* before the Lords of the Council, any thing was ſaid of Mr. *Layer*'s being at *Rome?*

Mr. *Hungerford.* With humble Submiſſion, Mr. *Layer*'s being at *Rome*, and correſponding with the *Pretender*, (if he did ſo) is made Treaſon by another Act of Parliament, not by this Act of Parliament upon which he is Indicted: Therefore, whether he was himſelf at *Rome*, or correſponded with the *Pretender*, cannot be offered in as an Evidence of High-Treaſon upon this Indictment.

Mr. *Serj. Pengelly.* It is only to ſhew the Probability of his receiving thoſe Receipts.

Mr. *Ketelbey.* Since we did not know any thing of thoſe Papers, we could not properly make our Exceptions againſt them, till we heard them read; and now if they prove any thing, 'tis the holding Correſpondence with the *Pretender*; but that relates to another late Act of Parliament; 'tis another Species of Treaſon; and the Evidence which they would give of his Confeſſion, *Viva Voce*; they ſay, it is only to ſupport theſe Papers that are read; Who can make any Objection to a Paper which we did know nothing of? I believe, few in the Court know what the Meaning of theſe Papers are now they are read;

read; for my Part, I know very little of them; we apprehend that inſtead of being allowed to ſupport this Evidence, by proving a Foreign Correſpondence between Mr *Layer* and the *Pretender*, by the Name of King *JAMES*, which is made Treaſon by a particular Act of Parliament; they ought rather to have Indicted him upon that Act, than endeavour to ſupport their defective Proof by giving Evidence of an Offence, which may be Matter of another Enquiry.

Mr. *Att. Gen.* My Lord, we apprehend a Proof, that the Priſoner was at *Rome*, and had Conferences with the *Pretender*, will be very proper to corroborate, and explain the Evidence that hath been given by the Witneſſes, and the *Pretender*'s Notes, and Sir *William Ellis*'s Letters to the Priſoner; and for thoſe Purpoſes we would make Uſe of it.

Mr *Sol. Gen.* Though we apprehend we have made our Caſe extreamly ſtrong already, yet this which has been opened may be offered by Way of further Confirmation: Notwithſtanding the Objection which is made, that we are attempting to give Evidence of another Kind of Treaſon not alledged in the Indictment, yet we inſiſt upon it, that it is proper here, as circumſtantial Evidence of the Treaſon which is alledged. We have proved a Conſpiracy entered into between this Gentleman and Others, to bring in the *Pretender*, and levy War for that Purpoſe; and alſo, Notes ſign'd *JAMES* R. which he received from Sir *William Ellis*, a Perſon at the *Pretender*'s Court. Now, if we follow this by ſhewing, that the Priſoner was actually at *Rome*, and had Perſonal Conferences with the *Pretender* Himſelf; that, ſurely, muſt be admitted to be a material Circumſtance to ſupport the Proof of thoſe other Facts. I beg Leave to ſay, that it has been held, even ſince the Stat 7° *Will. Tertij.* That Acts of High-Treaſon not laid in the Indictment, may be given in Evidence, if they conduce to the Proof of ſome Overt-Act which is there laid.

Mr *Serj. Cheſhyre.* We apprehend Your Lordſhip will receive Evidence of the ſame Kind of Treaſon in a lower Degree in Order to prove the Overt-Act, whereby he conſulted and conſpired to bring in the *Pretender*, and place him upon the Throne.

As the Priſoner did correſpond with his Miniſters, ſo he had Acceſs to the *Pretender* Himſelf; and he did own it. That we apprehend is going a Step higher, ſomething further than already is admitted; and if it is proper Evidence, there is no Reaſon why it ſhould be rejected.

Mr. *Reeve.* It is true, we have not Indicted him for a Treaſonable Correſpondence with the *Pretender*, therefore they object, we cannot give Evidence of any ſuch Correſpondence upon this Indictment.

My Lord, we humbly apprehend, every thing that is a Circumſtance that will gain Credit to the Witneſſes Examined is proper Evidence. It looks indeed improbable, that a Gentleman of the Profeſſion of the Law ſhould enter into this Treaſonable Deſign, which is expreſsly ſworn upon him by Two Witneſſes, whoſe Credit they deſign to impeach; therefore we humbly offer this as a circumſtantial Evidence. This Gentleman having gone from his Profeſſion, hath been at *Rome*, was kindly receiv'd and entertain'd by the *Pretender*; thereupon he hath entered into an Intercourſe with his Miniſters: And, if we prove this, it is to induce Credit to the Evidence we have given by poſitive Witneſſes. We therefore think it proper, and ſubmit it to Your Lordſhip.

Ld. Ch. Juſt. They muſt go on, they are not going upon an Evidence of a New Overt-Act of Treaſon; the Overt-Acts are, conſulting, adviſing, and agreeing to raiſe a Rebellion.

Mr *Hungerford.* I humbly beg Your Lordſhip's Pardon.

Ld. Ch. Juſt. If you will not hear me, you will teach me not to hear you.

Mr. *Hungerford.* My Lord, I hope we have a Right to reply.

Mr. *Weſt.* Upon the firſt Letter of Sir *William Ellis*'s he congratulates him, as his Friend, on his ſafe Arrival.

Mr *Hungerford.* My Lord, I beg your Lordſhip's Pardon; I am in the Service of my Client, and in endeavouring to do him Service, I am verily perſwaded, I ſhall not offend Your Lordſhip: Really for my Part, I cannot ſatisfie myſelf, that the Evidence which they tender to the Court is a proper Evidence.

This Gentleman is Indicted upon the Statute *de Proditionibus*, 25° *Ed. 3.* The Overt-Acts laid in the Indictment are, his Conſulting, Conſpiring, and Agreeing to raiſe a Rebellion, and to levy War againſt the King, &c.

There is an Act of Parliament in the laſt Year of King *William*, whereby the *Pretender* is Attainted, which makes Correſponding with the *Pretender*, or any of his Adherents High Treaſon; and when any Man commits that particular Treaſon, he is liable to be taken up and Proſecuted for it. Now my Lord, ſhall they be admitted to give an Evidence of a Treaſon committed in breach

of

of one Act of Parliament, when they are profecuting him upon another, they may as well offer Evidence againſt him for Counterfeiting the great Seal, or Clipping and Coining for the Sake of Evidence: We hope this Practice ſhall not be allowed; if they are ſo full of Proof (as by their opening they ſeem'd to be) which by the Rules of Law can reach this Man's Life, which I cannot yet ſee, let Juſtice take its Courſe: but we humbly hope they ſhall not be permitted to give Evidence of Facts which are intirely foreign to the preſent Accuſation, and can be calculated for nothing but to captivate the Jury, by acquainting them, that the Priſoner hath been at *Rome*. But if the King's Counſel will have it effectually publiſh'd, that the Priſoner hath been at *Rome*, let them conſent to have him found not guilty upon this Indictment, and let him then be proſecuted upon the Act, for Correſponding with the *Pretender*, and ſee what will come of it.

Mr. *Ketelbey*. The Act of Parliament that makes this new Treaſon is the 13 and 14. of King *William*; which not only makes that Treaſon which was not Treaſon before, but puts it on a new Method of Tryal in any County of *England*, where it is laid. Now they would give in Evidence a Fact, which Mr. *Serj. Cheſſhyre* ſays, is Evidence of the ſame kind of Treaſon though in a lower Degree, and ought to be receiv'd to prove the Overt Acts of conſulting and conſpiring to reſtore, and bring the *Pretender* to the Throne, as to the Evidence that hath been read we could not have objected to the Papers, becauſe we did not know what they were, nor whether they related to a Foreign or Domeſtick Correſpondence. Now becauſe they are read as being found on a Perſon to whom he gave them; ſhall they, to ſupport a Treaſon, of compaſſing and imagining the Death of the King; give Evidence of Correſponding with the *Pretender*.

My Lord, I don't apprehend the King's Counſel have given us any Manner of Anſwer, and therefore ſhall not take up any more of your Lordſhip's Time, by repeating in a Reply, what I offered before by way of Objection: I ſubmit it to your Lordſhip.

Ld. Ch. Juſt. Sure as this Evidence is offer'd it is very proper; conſider, in the Indictment the Overt-Acts are, meeting, conſulting, adviſing, and agreeing to raiſe a Rebellion. The next is, publiſhing a Traiterous Libel, in which Rewards are promiſed to thoſe that would aſſiſt in this Rebellion; a third Overt Act is, the Engaging and Liſting Men for the Service of the *Pretender*; a fourth is, a deſigning to depoſe the King; and another is, to ſet up the *Pretender* on the Throne: Now conſider, if they have not given an Evidence of theſe Overt-Acts, whether ſufficient or not, that muſt be left to the Jury; if they have given Evidence of theſe Acts; a Deſign to ſet up the *Pretender*, and to depore the King, *&c.* If they are not proper to ſhew for this Purpoſe, this Gentleman correſponded with *Rome*, was with the *Pretender*, theſe Letters ſent from Sir *William Ellis* to him: Letters according (to his deſire) purporting Receipts for Sums of Money to be ſigned by the *Pretender*, as a Foundation to oblige him to make repayment: after this and theſe Things have been offer'd, is it not proper to go as far as they can on this Head, and ſhew how far he hath been engag'd with the *Pretender* and his Accomplices? Sure it is proper, as a further Evidence of theſe Overt-Acts.

Don't Trouble yourſelf as to that, no Uſe ſhall be made of that, to charge you with the Treaſon made ſo by another Act of Parliament, about Correſponding, with the *Pretender*, for Evidence it is proper here; and it neither can, nor ſhall be made Uſe of to any other Purpoſe.

Mr. *Reeve*. Mr. *Stanyan*, Pray go on and give an Account of what he confeſs'd, when Examined before the Lords of the Council about his being at *Rome*.

Mr. *Stanyan*. Mr. *Layer* did acknowledge he had been at *Rome*, and returned from thence in *July* 1721. he ſaid he had had two Conferences with the *Pretender*.

Mr. *Ketelbey*. I think Mr. *Stanyan* ſaid, he had taken Minutes of his Examination; I had rather ſee the Minutes than truſt to his Memory. My Lord in the Tryal of the two *Bailiffs* in this Court, the Subſtance of what the Deceaſed ſaid was reduced into Writing; and therefore the Parole-Evidence that was offer'd to be given was rejected. I ſubmit it to your Lordſhip, whether the Rule is not the ſame in greater Caſes, and much ſtronger in this Point, before your Lordſhip. I have not the leaſt Diſreſpect for Mr. *Stanyan*, and could take his Word for any thing, but my Client's Life; therefore, we hope, he ſhall produce thoſe Notes, which he hath referr'd to once or twice, now he is going to give a further Account of his Examination.

Mr. *Hungerford*. My Lord, I was Councel in that Caſe; the Juſtice of Peace, who had taken Mr. *Lutterell's* Examination did not appear, and that Examination could not be had, there was a Copy of it taken and produced, and proved

proved in Court to be a true Copy, but your Lordſhip would not let that Copy be read, or the ſubject Matter of it to be given in Evidence, unleſs the original Examination itſelf were produced.

Ld. Ch. Juſt. Mr. *Attorney*, You hear how the Matter is, Mr. *Delafaye*, and Mr. *Stanyan*, give an Account that they were commanded by the Lords of the Councel, to attend and take Minutes of Mr. *Layer's* Examination before them; that they have thoſe Minutes, and have look'd into thoſe Minutes to refreſh their Memories: If they deſire they may be produced, do you oppoſe it? Have you the Minutes here?

Mr. *Stanyan.* Yes, my Lord.

Mr. *Serj. Pengelly.* There may be a great many Things that are not material to the preſent Caſe of Mr. *Layer*; why would they have all theſe Minutes read? It is not for the Sake of the Priſoner at the Barr, but for the Sake of ſome other People, who may be liſtening here.

In the Caſe of *Luttrell*, there was a compleat Examination taken by a Juſtice of the Peace: In this Caſe there is no Examination compleated and drawn up; it is nothing but an oral Confeſſion, and amounts to no more. The Minutes the Witneſſes may take in their Hands, as proper to refreſh their Memories.

Mr. *Att. Gen.* Their deſiring to have theſe Minutes read, is not ſo much for the Sake of their own Clyent, as for the ſake of other People.

Mr. *Serj. Cheſhyre.* How the Matter in that Caſe was ——

Ld. Ch. Juſt. It is enough, I only ask'd Mr. *Attorney-General*, whether he thoughr fit to conſent to it; and without his conſent we are of Opinion, that they cannot be read.

I aſk'd Mr. *Attorney* the Queſtion, and was not aware of any ill Conſequence?

Mr. *Attorney* ſays, the Minutes refer to the whole Examination, and to a great many other People, and it would be for the Diſſervice of the King, to have theſe Things diſclos'd. Mr. *Attorney* might have refuſed to conſent without giving a Reaſon, but he hath given a good Reaſon, and therefore will not Conſent that they be read.

Mr. *Ketelbey.* We do conſent to wave them, but inſiſt upon their being read:

Mr. *Att. Gen.* We don't ask your Conſent.

Mr. *Ketelbey.* If you don't ask it, nor we give it, we are ſo far even, but I aſſure you, Sir, we are retained only for one Gentleman; the Priſoner at the Bar, and we have as little Reaſon to be ſolicitous for the Innocence of others, as ſome have for their Guilt?

Ld. Ch. Juſt. You cannot read the Minutes taken againſt the King, becauſe theſe Matters are not ripe yet, nor to be diſcover'd to the World.

Mr. *Hungerford.* Something drop'd, as if we did inſiſt upon Matter for the Sake of Others; they are miſtaken, we contemn ſuch an Inſinuation. We are of Counſel for this Man, and for this Man ſingly.

Ld. Ch. Juſt. You are aſſigned Counſel for him, and unleſs you had, I believe you would not have ventured to have ſaid ſo much.

Mr. *Hungerford.* No indeed.

Ld. Ch. Juſt. Go on.

Mr. *Serj. Pengelly.* Mr *Stanyan*, pleaſe to recollect, whether when Mr. *Layer* was Examined before the Lords of the Counſel. (It is to confirm the Evidence of Mr. *Lynch*) any thing paſs'd about the Declaration.

Ld Ch. Juſt. But before you was intending to ask him about his going to *Rome*, and having Conference with the *Pretender*.

Mr *Serj. Pengelly.* My Lord, that he hath ſaid already, therefore I ask you what was ſaid by Mr. *Layer*, relating to the Declaration?

Mr. *Stanyan.* The Lords ask'd Mr. *Layer*, if he had ſeen any Declaration; he ſaid no, he had only the Heads of one which he drew himſelf: The Lords ask'd him where that Declaration was, he ſaid, he believed one *Wilſon* had it.

Mr *Serj Pengelly.* Was any Queſtions asked relating to the Perſons that had ſeen it?

Mr *Stanyan.* Yes, he ſaid the only Perſons that had ſeen it was, that *Wilſon*, one *William Jeffries, a Nonjuring Parſon*, and one *Lynch*.

Mr *Serj. Pengelly.* Where did he mention to have ſhew'd it to *Lynch*?

Mr. *Stanyan.* On his Way to my Lord *North* and *Grey's*, at the *Green Man* at *Epping*.

Mr. *Serj. Pengelly.* Was there any thing more ſaid by *Layer*, relating to that Journey to *Epping*, and what.

Mr. *Stanyan.* He ſaid that he went to my Lord *North* and *Grey's*, and dined at the *Green Man* as he went, then he carry'd Mr. *Lynch* to my Lord *North* and *Grey's*, and recommended him to my Lord *North* and *Grey*, as a proper Perſon to be Employed. I think,

I think it was employed in an Inſurrection, or in any Thing elſe, that his Lordſhip ſhould command him.

Mr. *Ketelbey.* If he is not certain, I deſire he may produce his Minutes, as he gives his Evidence *viva voce*, to refreſh his Memory.

Mr. *Attorn. Gen.* We ſubmit to it.

L. Ch. Juſtice. It is always ſo.

Mr. *Stanyan.* He recommended him, as a proper Perſon to be employed in an Inſurrection, and that *Lynch* having told *Layer* before that he would ſeize the Earl of *Cadogan*, that *Layer* did mention him to my Lord *North and Gray*, as a proper Perſon for ſuch an Attempt.

Mr. *Ketelbey.* The firſt Time you ſaid, in an Inſurrection, as you remembred or thought; how come you now to be more certain on the ſecond Repetition of your Evidence than at the firſt? On the firſt Account you gave you ſay, It was employed in an Inſurrection, as you thought; now upon the ſecond Repetition you give a poſitive Evidence, that this was Confeſt by Mr. *Layer*.

Mr. *Stanyan.* I have recollected the Words, and Mr. *Layer* uſed thoſe Words.

Mr. *Ketelbey.* From whence is it that you are now ſo poſitive, and were not ſoat firſt?

Mr. *Stanyan.* I did ſay the Words at firſt.

Mr. *Ketelbey.* But you ſaid it with an Alleviation; I deſire to know, if you are poſitive thoſe were the Words.

Mr. *Stanyan.* I am very poſitive.

Mr. *Ketelbey.* And yet you were not poſitive before.

Mr. *Stanyan.* I did not ſay I was not poſitive.

Mr. *Hungerford.* Did you give your Evidence, that you was certain he ſaid that he had recommended *Lynch*, as a proper Perſon to be concerned in an Inſurrection in General, or only as a proper Perſon to ſeize my Lord *Cadogan*, or both? how did he expreſs himſelf?

Mr. *Stanyan.* I will tell you how the Words were: *Lynch* having told him he would ſeize my Lord *Cadogan*, *Layer* recommends *Lynch* to my Lord *North and Gray*, as a proper Perſon for ſuch an Attempt.

Mr. *Hungerford.* Then the Inſurrection was out of the Caſe; he was only recommended to my Lord *North and Gray*, as a proper Perſon to ſeize my Lord *Cadogan*.

Mr. *Ketelbey.* I think you have repeated it three Times, and different at each Time; now pleaſe to rectify your Memory, and let us have it ſo as it may be underſtood.

I muſt deſire it in this Caſe, my Client is upon his Life, and he ſhould have Right, I am ſure he will have it from the Court and the Jury.

We deſire to know whether you give ſuch an Evidence of this Part of his Confeſſion, with Reſpect to his recommending Mr. *Lynch* to my Lord *North and Gray*, as you will ſtand by?

Mr. *Hungerford.* Mr. *Stanyan*, pray give an Account once for all how that Matter was.

Mr. *Stanyan.* I can give you no other Account.

Mr. *Ketelbey.* He hath vary'd every Time; I appeal to Mr. Attorney, I appeal to your Lordſhip.

L. Ch. Juſtice. Wherein is the Variation?

Mr. *Ketelbey.* Firſt he acquaints you, that he confeſſed that he recommended *Lynch* to my Lord *North and Gray*, as a fit Perſon to be employed he thinks, or believes, it was in an Inſurrection; and then he ſays, he is poſitive that he recommended him to my Lord *North and Gray*, as one that was fit to be employed in an Inſurrection, and at laſt he ſays, he was recommended by Mr. *Layer* to my Lord *North and Gray*, as the fit Perſon to ſeize my Lord *Cadogan*. I appeal to your Lordſhip's Memory, and his own Oath, whether this was not ſo, and yet he is poſitive of it, he is ſure of it

L. Ch. Juſtice. Is there any Difference in all this?

Mr. *Ketelbey.* As much as between being certain, and being uncertain.

L. Ch. Juſtice. For what? You talk of the Variation between an Inſurrection and the Seiſing my Lord *Cadogan*. The Inſurrection was partly to be made on the Seiſing my Lord *Cadogan*, at the ſame Time, as to facilitate the Inſurrection; both were to go together; if he was a proper Perſon to ſeize my Lord *Cadogan*, he was a proper Perſon to be employed in an Inſurrection.

Mr. *Ketelbey*. He is charging the Priſoner with his Confeſſion, and therefore I ſay, he hath mentioned it with two or three Variations: Firſt, That he was fit to be employed in the Inſurrection, and he explains that by ſeiſing my Lord *Cadogan*.

L. Ch. Juſtice. That is Part of the Inſurrection.

Mr. *Ketelbey*. Surely, my Lord, this ſerves to make our Objection ſo much the ſtronger againſt allowing Parol Evidence of a Confeſſion, which was put in Writing.

Mr. *Attorn. Gen*. I can't imagine what they mean; here is a Gentleman, that gives an Account, that the Priſoner confeſſed that he recommended *Lynch* to my Lord *North and Gray*, as a proper Perſon to be employed in the Inſurrection, and to ſeize my Lord *Cadogan*; where is the Variation in this?

Mr. *Sol. Gen*. Mr. *Stanyan*, you was giving an Account of Mr. *Layer* recommending *Lynch* to my Lord *North and Gray*; Did Mr. *Layer* declare any thing further relating to that Matter?

Mr. *Stanyan*. He ſaid my Lord *North and Gray* received him civilly; he ſupp'd there and lay there that Night, and they din'd there the next Day.

Mr. *Sol. Gen*. Did he give any Account of what paſſed at Dinner?

Mr. *Stanyan*. I don't know whether it was juſt at Dinner, or afterwards: But he ſaid that ſeveral Healths were drunk, which were begun by my Lord *North and Gray*; and after Dinner there came in a Man they called a Citizen, they drank the Pretender's Health, his Wife and the Young Prince.

Mr *Sol. Gen*. Did the Priſoner ſay any thing about the Chriſtning of his Child?

Mr. *Stanyan*. That was when he confeſſed before the Lords, that he was at *Rome*, in the Conference he had with the Pretender, he took Occaſion to ſpeak of the Diſcontents of the Nation, which had been occaſioned by the Loſſes ſuſtained in the *South-Sea*. The Pretender ask'd him if he knew any Perſons of Diſtinction in that Caſe? He ſaid, that he knew a great many, that were well affected to his Intereſt; that he was not acquainted with People of Quality: But that he knew ſeveral of Good Eſtates, that were very well affected to his Intereſt. Upon this the Pretender ask'd him ſeveral Queſtions, ſays he, It muſt be very Expenſive to you to come hither to *Rome*, it muſt coſt you 500 *l*. No, ſaith he, not above half ſo much. Then the Pretender praiſed his Zeal, and commended him; after that Mr. *Layer* ask'd the Pretender to give him ſome Tokens or Credentials, that he might have ſome thing from his Majeſty; that wou'd be a Means of his gaining Credit among his Friends here. He ſays the Pretender ſcrupled that: Then Mr. *Layer* propoſed afterwards that the Pretender's Wife ſhould ſtand Godmother to his Daughter, to Mr. *Layer*'s Daughter; that afterwards Col. *Hay*, to whom he was introduced at the Pretender's Court, brought him Word, that the Pretender's Wife would ſtand as Godmother to his Child: But then the Queſtion was, Who ſhould repreſent her? And after ſome Time it was propoſed to Mr. *Layer* to find out a fit Perſon to repreſent her. Mr. *Layer* propoſed the Dutcheſs of *Ormond*, which was agreed to; after that the Pretender agreed to ſtand Godfather with his Wife, and then the Point was, who ſhould repreſent him? And Col. *Hay* told him that he muſt take Care of that, to find a proper Perſon to repreſent his Majeſty.

Mr. *Sol. Gen*. What Account did he give of what was done in Purſuance of this, when he came into *England*?

Mr. *Stanyan*. When he came into *England*, he ſaid, he applied himſelf to one Mr. *Thompſon*, to ſpeak to my Lord *Orrery* to ſtand to repreſent the Pretender, with the Dutcheſs of *Ormond*: But he ſaid my Lord *Orrery* declined it; and afterwards he got my Lord *North and Gray* to ſtand. That Mr. *Thompſon* did Chriſten his Child, my Lord *North and Gray* and the Dutcheſs of *Ormond* ſtanding as Proxies for the Pretender and his Wife; my Lord *North and Gray* did ſtand to repreſent the Pretender, and the Dutcheſs of *Ormond* to repreſent the Pretender's Wife, knowing they did ſo.

And he was ask'd by the Lords, Who were in Company at the Chriſtening? He ſaid, [illegible] the Dutcheſs of *Ormond*, my Lord *North and Gray*, Mr. *Thompſon* the Min[illegible], himſelf, and his Wife, and another Woman, at whoſe Houſe the Chriſtning was performed: But he ſaid, ſhe was not preſent in the Room, tho' ſhe aſſiſted at the Chriſtning.

Mr.

Mr. *Weſt.* Did he mention any Time, when this Chriſtning was?

Mr. *Stanyan.* About the Spring. I can't ſay that Queſtion was ask'd him by the Lords, and I can't aſcertain the Time.

Mr. *Weſt.* Did he ſay any thing relating to my Lord *North and Gray*?

Mr. *Stanyan.* He told them of my Lord *North and Gray*'s being at the Head of theſe Deſigns.

Priſoner. What doth he concern himſelf with the Lord *North and Gray* for?

Mr. *Weſt.* Pray Sir be quiet.

Mr. *Stanyan.* He ſaid, he told my Lord *North and Gray* that he had acquainted *Lynch* with his Lordſhip's being at the Head of this Deſign, therefore Mr. *Lynch* had expreſſed a great Deſire to wait upon his Lordſhip.

Mr. *Attorn. Gen.* Mr. *Delafaye*, pray give an Account what Mr. *Layer* ſaid, when he was examined before the Lords of the Council, relating to his being at *Rome*.

Mr. *Delafaye.* Mr. *Layer* declared to the Lords of the Council, That he had been at *Rome*, that he had had two Conferences with the Pretender, that he had acquainted the Pretender with the Diſaffection of the Nation, with Reſpect to the Loſſes, that had been ſuſtained by the *South-Sea*, He ſaid, in general the Nation was well affected, and that he knew Perſons of Eſtate, not Quality, that were in his Intereſt: Then he propoſed to have Credentials or Tokens of the Pretender's Regard to him, which was not granted him: Then he deſired the Pretender's Spouſe ſhould ſtand Godmother to his Child; the Pretender ſaid he would conſider of it, Col. *Hay* afterwards brought him Word, that ſhe conſented; then there were ſome Conferences, who ſhould repreſent her.

Mr. *Attorn. Gen.* Give the ſame Account, that he gave before the Lords of the Council.

Mr. *Delafaye.* Col. *Hay* brought Word to Mr. *Layer*, that the Pretender's Spouſe conſented to ſtand Godmother to his Child; and it was agreed the Dutcheſs of *Ormond* ſhould repreſent her; he deſired a Credential or Token to the Dutcheſs of *Ormond*. *Hay* told him, without that ſhe would ſtand, only, ſaith he, carry a Meſſage, that the Duke is well, and gone to *Madrid*, that ſhe wou'd do it; and *Layer* deſired to know who ſhould ſtand as Godfather, why the King himſelf, that is the Pretender; and *Layer* deſired to know who was to repreſent him; he deſired to be excuſed, but *Layer* would find out one upon his Return into *England*, that was proper for that Purpoſe; when he came into *England*, he was at a Loſs for a Perſon to repreſent the Pretender; he went to Mr. *Thompſon* to adviſe with him about it, who went to my Lord *Orrery*, to deſire him to ſtand as Proxy for the Pretender, my Lord *Orrery* declined it, then he went to my Lord *North and Gray*, who accepted it; the Child was Chriſtned; it was at *Chelſea*, I take it, at a Houſe, where there was a *China* Shop. It was in the Spring, what Day I can't tell. That he ſaid there was his Wife, my Lord *North and Gray*, who ſtood for the Pretender, and Dutcheſs of *Ormond*, who ſtood for the Pretender's Wife, the Woman of the Houſe, but ſhe was not within the Room at the Chriſtening.

Mr. *Attorn. Gen.* Do you remember any thing ſaid by *Layer* about any Declaration, that was drawn?

Mr. *Delafaye.* Mr. *Layer* own'd that he had drawn Heads of a Declaration; and that, when he was going to my Lord *North and Gray*'s, he did ſhew it to Mr. *Lynch* at the *Green-Man*, as he was on his Way thither.

Mr. Serj. *Pengelly.* What ſaid he of his recommending Mr. *Lynch* in his Examination?

Mr. *Delafaye.* He ſpoke of his recommending *Lynch* twice; that Mr. *Lynch* having told him he would ſeize my Lord *Cadogan*, he did recommend him to my Lord *North and Gray*, as a proper Perſon for that Attempt. The ſecond Time that he recommended him, he had propoſed carrying *Lynch* to my Lord *North and Gray*'s, he having told him that he was a very honeſt Man, fit to be concerned in an Inſurrection, That *Layer* having told *Lynch* his Lordſhip was to be at the Head of the Deſign, *Lynch* was impatient to wait upon him.

Mr. *Attorn. Gen.* We ſhall now prove there were Arms at the Priſoner's Houſe when he was ſeized. Mr. *Stanyan*, were you at Mr. *Layer*'s Houſe, when he was ſeized?

Mr. *Stanyan.* Yes.

Mr. *Attorn. Gen.* Do you know of any Arms there?

Mr. *Stanyan.* Yes.

Mr. *Attorn. Gen.* Give my Lord and the Jury an Account what Arms?

Mr.

Mr. *Stanyan.* Juſt after Mr. *Layer* was ſeized I came in, he was juſt got out of his Bed, I obſerved in the Room, where he lay, there were a Pair of Piſtols hung by his Bed Side, and between them a Horſe-man's Sword, a riding Sword, a pretty large Sword, on th' other Side of the Bed next the Chimney a little Caſe of Piſtols, and another Sword hung in another Part of the Room. In the Cloſet of the ſame Room we look'd, and I ſaw two Carbines or Guns, and two Muſquetoons or Blunderbuſſes; ſeeing ſo many Arms, I went to handle ſome of them, upon which he ſaid, Have a Care, they are loaded, don't meddle with them; upon that I ask'd him what he had to do with ſo many Arms? he anſwered, You muſt know my Clerk and I are great Shooters, when we are in the Country. In another Room, looking further, we obſerved ſeveral Moulds for the making of Bullets. There was alſo a Cartridge-box, and a Number of Cartridges ready made up, as near as I can gueſs (I did not count them) there were about 40 or 50 of them. There was a Gentleman of the Army, and he ſaid they were ſuch Cartridges as were uſed in the Army.

Mr. *Attorn. Gen.* Was there any thing relating to theſe Arms confeſſed by Mr. *Layer* before the Lords of the Council?

Mr. *Stanyan.* He did not deny it I believe.

Mr. *Attorn. Gen.* I would ask you whether there was any thing ſaid before the Lords relating to theſe Arms.

Mr. *Stanyan.* The Lords did ask Mr. *Layer* what he did with forty or fifty Cartridges ready made up? He ſaid they were made up by *Bowers* the Gunſmith, and that, if there was any Diſturbance in the Nation, he ſhould have occaſion for them.

Mr. *Attorn. Gen.* Mr. *Delafaye*, was you by, when he was ask'd the Queſtion about theſe Arms?

Mr. *Delafaye.* Yes; he was ask'd what he did with ſo many Cartridges and Arms, and he ſaid they were proper for his Uſe, if there ſhould be any Diſturbance in the Nation.

Col. *Huske* ſworn.

Mr. *Attorn. Gen.* Was you by, when theſe Arms were ſeized in Mr. *Layer*'s Houſe?

Col. *Huske.* Yes; there were two Caſes of Piſtols, two Fuzees, and ſome other Arms and a Blunderbuſs, and two or three Swords; there were above 40 Cartridges ready made up in the uſual Manner, as they are made up, when our Soldiers are to Charge their Pieces for Expedition in Caſe of Action.

Mr. *Attorn. Gen.* How many were there?

Col. *Huske.* About forty.

Mr. *Attorn. Gen.* Did you ſee any Moulds for Bullets?

Col. *Huske.* There was a Mould for Musket-balls.

Priſoner. You ſaid I had two Fuzees, will a Musket-ball go into a Fuzee?

Col. *Huske.* I can't tell but it may,

Priſoner. There were 40 Cartridges, which were ready made up, will thoſe Cartridges go into a Fuzee?

Col. *Huske.* Theſe very Cartridges were only fit for the Army.

Mr. *Ketelbey.* Theſe Cartridges were not fit for the Musket?

Col. *Huske.* I did not try them.

Mr. *Ketelbey.* Would they go into a Fuzee?

Col. *Huske.* I don't know.

Mr. *Ketelbey.* According to my Notions, there is a Difference in Bigneſs between a Fuzee and a Musket, and a Cartridge fit for a Musket will not go into a Fuzee.

Col. *Huske.* A Cartridge, that is fit for a Fuzee, will go into a Musket.

Mr. *Ketelbey.* I believe that, and ſo it will into a Canon; therefore I ask, whether a Cartridge, that is fitted to a Musket, and proper for the Uſe of a Soldier going to Battle, whether that Cartridge will fit a Fuzee?

Col. *Huske.* The Bore of a Fuzee may be made as large as that of a Musket.

L. Ch. Juſtice. Thoſe Cartridges, that were there, would they have ſerved for the Fuzee?

Col. *Huske.* I am ſatisfied that they would ſerve for the Fuzee, and the ſmalleſt Arms there, except the Piſtols.

Mr. *Ketelbey.* You ſay there were two Swords?

Col. *Huske.* Yes, I ſaw two Swords.

Mr. *Ketelbey.* I beleive you never are without two Swords.

Col. *Huske.* I beleive I have a dozen, but they belong to my Company.

Priſoner. Were they Horſe Swords, or Swords fit to walk with?

Coll. Huske. I cann't tell that.

Mr. *Hungerford.* I think you ſay, that thoſe Bullets, made into Cartridges were, by the Size of them, intended for the ſmall Arms.

Coll. *Huske.* I do believe they would fit the two Fuzees that I ſaw.

Mr. *Ketelbey.* Did you open any of the Cartridges?

Coll. *Huske.* I did, and there was a Ball made up at the End of each Cartridge.

Mr. Smeybert *ſworn*,

Mr. *Soll. Gen.* Do you know the Priſoner at the Bar?

Mr. *Smeybert.* Yes, I do.

Mr. *Soll. Gen.* Recollect whether you have ſeen him at *Rome.*

Mr. *Smeybert.* Yes, I have.

Mr. *Soll. Gen.* When? Mr. *Smeybert.* About a Year and half ago.

Mr. *Soll. Gen.* For how long Time was he there?

Mr. *Smeybert.* I think about a Week or a Fortnight.

Mr. *Soll. Gen.* Did you or the Priſoner leave *Rome* firſt?

Mr. *Smeybert.* I left *Rome* firſt. *Mrs.* Hay *ſworn.*

Mr. *Serj Cheſhire.* Did you ever ſee the Priſoner? Mrs. *Hay.* Yes.

Mr. *Serj. Cheſhire.* Where did you ſee him?

Mrs. *Hay.* I ſaw him at *Rome.*

Mr. *Serj. Cheſhire.* When?

Mrs. *Hay.* Laſt Summer was Twelve-month.

Mr. *Serj. Cheſhire.* What Time of the Year was it, as near as you can remember?

Mrs. *Hay.* I cann't tell exactly what Time, but it was laſt Summer was Twelve-month.

Mr. *Serj. Cheſhire.* You are ſure you ſaw him there? Mrs. *Hay.* Yes.

Mr. *Att. Gen.* My Lord, we ſhall now prove the Priſoner's Eſcape out of the Meſſenger's Cuſtody, as was open'd before. Call Mr. *Squire.*

Mr. Squire *ſworn*,

Mr. *Att. Gen.* Look upon the Priſoner at the Bar, do you know him?

Mr. *Squire.* Yes, I do know him?

Mr. *Att. Gen.* Do you know any thing of his being taken up? Give an Account when it was that he was taken.

Mr. *Squire.* He was taken the Eighteenth Day of *September* laſt.

Mr. *Att Gen.* Whoſe Cuſtody was he in after he was taken?

Mr. *Squire* He was in my Cuſtody.

Mr. *Att. Gen.* What became of him afterwards? Did he continue in your Cuſtody?

Mr. *Squire.* No, he made his Eſcape.

Mr. *Att. Gen.* How long after he had been taken was it that he made his Eſcape?

Mr. *Squire.* It was the next Day he got out of the Window.

Mr. *Att. Gen.* How high was the Room he got out of.

Mr. *Squire.* It was two Story high, he lifted up the Saſh and ſo got out of the Window.

Mr. *Att. Gen.* Did you purſue him?

Mr. *Squire.* Yes.

Mr. *Att. Gen.* What Account can you give of his being taken again?

Mr. *Squire.* He had not been gone long before I found he had made his Eſcape, and underſtanding which way he went, I immediately purſued him, and I took him in a Lane going towards St. *George's Fields.*

Mr. *Att. Gen.* What did he ſay?

Mr. *Squire.* He ſaid he was very ſorry to ſee me; I ask'd him how he could offer to go away from me; and he ſaid, every body elſe would have done the ſame in his Condition, and that no body could blame him for it; and that he believed my Lord *Carteret* would not blame him.

Mr. *Att. Gen.* But why?

Mr. *Squire.* Becauſe he look'd upon himſelf in ſuch a bad Condition, and ſo much Danger, he ſaid, no body could blame him becauſe he was in that Condition.

Priſoner. What Condition. I deſire to ask you one Queſtion; Did not I ask you to ſhew me your Warrant?

Mr. *Squire.* No, you never ask'd me.

Priſoner. Did not I ask you at my own Houſe?

Mr. *Squire.* No, you did not.

 Priſoner. Did

Priſoner. Did you ſhew me your Warrant?

Mr. *Squire.* You did not ask me for it.

Priſoner. Did not I tell you the Reaſon that I eſcaped was, becauſe I did not know what Authority you had to detain me.

Mr. *Squire.* No, you did not.

James Peterſon *ſworn.*

Mr. *Att. Gen.* Mr. *Peterſon*, Do you know any thing of the Priſoner's Eſcape?

Peterſon. Mr. *Layer* was in Cuſtody at my Father's Houſe, in Mr. *Squire's* Houſe, in a Room up two Pair of Stairs backwards.

Mr. *Att. Gen.* Do you know any Thing of his getting away?

Peterſon. No, I was abroad then.

John Sweete *ſworn.*

Mr. *Att. Gen.* Look upon the Priſoner at the Bar; do you remember you ever ſaw him before?

Sweete. Yes, I ſaw him juſt going into St. *George's Fields.*

Mr. *Att. Gen.* Did any body take him there?

Sweete. I was the firſt that took him.

Mr. *Att. Gen.* What did he ſay to you when you took him?

Sweet. He ſaid, For God's Sake let me go; and ſaid 'twas an Arreſt: Why then, and pleaſe you, my Lord, my Partner came up, and asked him whether it was an Arreſt, and he ſaid it was; and then looking about me, I ſaw another Perſon coming after us, who was the Meſſenger: It ſeems he had broke out of the Meſſenger's Houſe. And then he clapt his Hand into his Pocket, and pull'd out I believe about 40 Guineas, and ſaid we ſhould take what we would if we would let him go, but we would not.

Anthony Stephens *ſworn.*

Mr. *Att. Gen.* What did *Layer* ſay when he was firſt taken?

Stephens. We asked him, is it for an Arreſt? Yes, ſays he, it is an Arreſt; and when he ſaw Mr. *Squire's* Son coming after us, he would give us whatever we pleaſed to let him go; and more than that, he ſaid they had no Warrant, and he did not know that they could keep him without a Warrant.

Mr. *Serj. Pengelly.* My Lord, We have gone through our Evidence, and ſhall reſt it here.

Mr. *Hungerford.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, I am of Counſel for the Priſoner at the Bar; and after ſo long an Evidence as hath been given in this Cauſe, it will beſt become me to draw the Matter in Debate to a ſingle Point, if I can, and thereby to give Eaſe to your Lordſhip, the Jury, and the Counſel on both ſides. My Lord, the Priſoner is indicted upon the Statute of the 25th of *Edward* the Third, commonly called the Statute *De Proditionib'*, The Things made, or rather, declared Treaſon by that Act, are, Firſt, The compaſſing or imagining the Death of the King, or of the Prince of *Wales.* Then the Statute goes on to declare other Things Treaſon which relate only to the Perſons of ſome of the Royal Family; and then it declares likewiſe, That it is Treaſon to levy War againſt the King, *&c.* It is not ſaid, That to Deſign, or Contrive to levy War, but actually to levy War only ſhall be Treaſon.

This is the Text, this is the Law upon which the Gentleman at the Bar muſt be either ſaved or condemned. The Treaſon laid to his Charge is Compaſſing and Imagining the Death of the King: The Overt Acts laid to his Charge are, That he did conſult and conſpire to levy War.

That he did publiſh a certain Treaſonable Libel, purporting among other Things, a Promiſe of Reward to His Majeſty's faithful Subjects, to riſe in Arms and levy War againſt the King.

That he conſulted to put the Pretender upon the Throne.

That he liſted Soldiers for him.

And the laſt Overt Act is, That he conſulted to ſeize and impriſon the King. My Lord, and you Gentlemen of the Jury, There is no Evidence of any of theſe Overt Acts attempted to be given in Evidence againſt him in *Eſſex*, ſave only that of Publiſhing a Treaſonable Libel, which the King's Counſel, in their Evidence, would inſinuate to be the Pretender's Declaration. The Evidence of the other Overt Acts are attempted to be proved in *Middleſex.* And in Truth, the greateſt Part of the whole Tranſaction was by the King's own Evidence, proved to be in that County, and I wonder the Indictment was not laid there; but Gentlemen, the Indictment being laid in *Eſſex*, if an Act of High Treaſons, is not proved to have been committed by the Priſoner in that County, he muſt be acquitted.

I might here, my Lord, inſiſt, that an actual levying of War and not deſigning

ſigning to levy a War, being made Treaſon by the Statute of Treaſons, the publiſhing a Paper which purports at the utmoſt but an Intention only to levy War or raiſe a Rebellion is not Treaſon, and conſequently not a legal Overt Act within that Statute. This Opinion is warranted by the expreſs Words of the Act of Parliament it ſelf, which is a better Authority than all the Commentators upon it, and it is likewiſe the Opinion of * my Lord Chief Juſtice *Coke*, and my Lord Chief Juſtice *Hales*; and in Truth, if this be not the true meaning of the Act, One Paragraph, *Viz.* that which declares actual levying of War Treaſon is ſuperfluous and redundant; for what is the Uſe of making actual levy of War or a Rebellion a diſtinct Species of Treaſon, when the Intention of doing it, according to ſome modern Doctrines, was High Treaſon within the firſt Clauſe of the Act, *Viz.* Imagining the Death of the King. This Opinion likewiſe ſeems to be confirmed by two Acts of Parliament, one in †Queen *Elizabeth's* Time, and one in King *Charles* the Second's, where conſulting or intending to levy a War or raiſe a Rebellion, is made High Treaſon during the Lives of them Two reſpective Princes, for which Temporary Proviſion there would be no Reaſon if the Law were ſo before. I know what hath been ſaid to ſome Part of this Matter, that the levying of War meant in the Statute of 25. of *Edward* the Third, was not meant of ſuch a Rebellion as was levell'd againſt the King's Perſon, Crown, Title, or Government; but of ſuch publick Commotions as diſturbed the Peace of the Kingdom, as the pulling down of Incloſures, which was the Caſe in Queen *Elizabeth's* Time, or of pulling down Bawdy-Houſes, which was the Caſe in *Charles* 2d's Time: But to ſhew how unnatural a Conſtruction of the Words *Lever le Guerre*, it is to ſay, that it relates only to ſuch riotous Commotions as I have mentioned. Give me leave, my Lord, to make but one Obſervation. The Statute of Treaſons is penned in the *French* of that Age, and the Words of the Statute *Lever le Guerre* againſt the King, I have here within my Reach, in Court, a Book of very great Note and good Authority, it is the Hiſtory of *Froiſſart*, who writes the Hiſtory of *England*, *France*, and *Spain*, from the Year 1326, to the Year 1340, and dedicates his Book to that very King, *viz.* *Edward* the Third, in whoſe Reign the Statute of Treaſons was made, and in this whole Book, *Lever le Guerre* is conſtantly mentioned to denote a publick ſtated War, and in this Senſe, it is likewiſe taken by *Du Freſne* in his *Gloſſary*, Vol. 2. pag. 255. —I only hint this Matter to your Lordſhip, for I well know what Determinations, my Lords, the Judges have of late Years given upon this Objection; but I humbly hope that there will be no Occaſion for an intire Dependance upon this Objection, in this Caſe, for that I hope it will appear both to your Lordſhip, and the Jury, that no ſuch Overt Act, as is ſaid in the Indictment, that is, publiſhing the Pretender's Declaration at the *Green Man*, is at all proved.

The Evidence given touching that Matter is only by Mr. *Lynch*, and he gives an Account that the Priſoner and He met at *Aldgate*, in order to go to the Houſe of my Lord *North* and *Gray* at or near *Epping*: In the courſe of their Journey thither finding themſelves too late to be at my Lord *North's* by Dinner; they called in at the *Green Man*, and there got a Beef-Steak: And before it was brought up the Priſoner gave Mr. *Lynch* a Paper, which Mr. *Lynch*, and not the Priſoner calls the Pretender's Declaration; Mr. *Lynch* reads only one Paragraph in it, whereby, as he ſays, the Soldiers were attempted to be allured from his Majeſty's Service; this is the whole Evidence given touching any Offence committed in the County of *Eſſex*: For as to any treaſonable Diſcourſe between *Aldgate*, and the *Green Man*; they cannot in Juſtice, and without a particular Proof to that Purpoſe, be charged upon the Priſoner to be done in *Eſſex*, a great Part of the Way, *viz.* from *Aldgate* to *Bowbridge*, being in *Middleſex*, and not in the County of *Eſſex*.

In the firſt Place therefore, Gentlemen of the Jury, we hope there is no Evidence to convince you that any ſuch Declaration was publiſhed at all, and yet, *Secondly*, If there was a Paper read there, the Paper read was not an Act of High Treaſon. The Time that the Priſoner and Mr. *Lynch* ſtaid at the *Green Man*, ſeems to be very ſhort, their Stay was ſo ſhort that there is no Evidence that their Horſes were put up: The Beef-Steak was beſpoke before they went into a Room. Mr. *Lynch* came down twice out of the Room; he himſelf admits once, beſides his gaping at ſome Perſons in the Yard whom he knew, before the Beef-Steak was brought up; and yet, before the Beef-Steak was brought up, this Declaration is pretended to be publiſhed: For my Part, conſidering how little Time there was for ſuch a Tranſaction as this is, I cannot think, there could be

* Coke's *Inſt. Ch.* 1. *pa.* 9, *and* 10. Hale's *Pleas of the Crown*, *p.* 13.
† I. Eliz. *Cha.* 1. 13. Car. II. *Cha.* 1.

any

any ſuch Thing as that tranſacted at that Time, the Compaſs of Time would hardly allow it; whatever was done, is admitted on all Hands, to be done before the Beef-Steak was brought up, and the other Incident may very well be ſuppoſed to take up all the Time betwixt the beſpeaking and diſhing up the Beef-Steak, ſo there could be no Time for ſo ſolemn an Act as publiſhing a Declaration to overturn Three Kingdoms. But in the 2*d* Place, if the Priſoner, which I don't admit, did give Mr. *Lynch* any Paper to read a Paragraph, whereof was to the Purpoſe Mr. *Lynch* relates; yet ſuch Paper cannot be imputed to the Priſoner as an Act of High Treaſon, there was but a few Lines of the Paper read, and the reſt were not read at all, either by Mr. *Lynch*, or the Priſoner; and I never knew that Part of a Deed or Writing was ever allowed to be given in Evidence, without producing or reading the whole. In the Caſe of my Lord *Ruſſel*, where the Declaration for Rebellion was aſſigned as an Act of High Treaſon, the whole Declaration was proved to be read and not a Part only, and yet even that Evidence was upon the Revolution in the Firſt Year of King *William* and Queen *Mary*, look'd upon ſo Imperfect an Evidence of High Treaſon, that for that, and other Reaſons, my Lord *Ruſſel*'s Attainder was revers'd; we have a Copy of the Act of Parliament for the Reverſal here atteſted, and we are ready to produce it if Your Lordſhip thinks fit.—Can it be ſaid that the Priſoner giving Mr. *Lynch* a Paper, of which he reads only a few Lines, and then the Priſoner takes it up again, is a Publiſhing of a Treaſonable Paper, or in truth, a Publiſhing of any Paper at all? Declarations for Rebellions are commonly Publiſhed in publick Places, to captivate Multitudes, and not handed from one Man to another when they are expecting a Beef-Steak; there was no appointed or ſolemn Meeting at the *Green Man*; No concourſe of People there, neither in Truth, by Mr. *Lynch*'s own Evidence can it be taken to be a real Declaration; for he ſays, as I remember, that in that Paper it was mentioned that the Lord *Cadogan* was in Cuſtody, that Fact is utterly falſe, his Lordſhip neither was, nor is ſo.

I muſt ſubmit to the Conſideration of my Lords the Judges, and the Jury, of how dangerous a Conſequence, Conſtructions of this Nature may prove to be. Before the Statute of Treaſons, the People of *England* laboured under vaſt Miſchiefs by the great Incertainty there was of what was High Treaſon, and what was not; the Parliament thereupon, to eaſe the People of that Perplexity, in the 25*th* of *Edward* 3d. paſſed the Law of Treaſons, for which the People then paid a great Sum of Money; and for which that Parliament was called Bleſſed (*Parliamentum beatum*) and now if every Act a Man doth, though perhaps tending to Sedition, ſhall be interpreted to be an Overt Act of High Treaſon, the Subject will labour under the ſame Inconvenience, and under the ſame Perplexities, as they were before the Statutes of Treaſons; this Practice may be ſo far improved, that if a Man delivers a Seditious Ballad to another to be read, that ſhall be interpreted an Overt Act of High Treaſon, much more if People in their Cups ſhould drink ſuch Healths, as were ſaid to be drunk at my Lord *North* and *Grey's* Houſe; for no Man can deny but that *Bibere eſt agere*, whatever *Scribere* is; This, my Lord, is all that occurs to me at preſent concerning the Charge of High Treaſon upon the Priſoner within the County of *Eſſex*, and if there be no Charge made out againſt him there, the Evidence given againſt him, of what he did or ſaid elſewhere muſt go for Nothing.

Mr. *Ketelbey*. May it pleaſe your Lordſhip and you Gentlemen of the Jury, I likewiſe appear here as Counſel for the Priſoner, who having pleaded Not Guilty to this Indictment, I muſt ſuppoſe him ſo 'till he be found otherwiſe; and 'tis my Duty (being aſſigned for him by the Court) to lay the Circumſtances of his Caſe before you in as true and clear a Light as I can, and to offer to your Conſideration what may occur proper for his Defence, and legally conduce to the clearing his Innocence.

The Charge laid to him is of the higheſt Nature that the Laws of *England* know; *Crimen leſæ Majeſtatis*; No leſs than the conſpiring and compaſſing the Death of the King; And as it is an Offence, not capable of any Aggravation, nor to be alleviated by any thing that we can offer, we humbly hope your Lordſhip, and the Gentlemen of the Jury, will expect the ſtrongeſt Evidence the Nature of the Caſe admits, ſuch as the Law requires, and is in ſome Meaſure proportionable to the Greatneſs of the Offence.

The Act of Parliament upon which the Priſoner ſtands Indicted, is the 25*th* of *Edward* VI. It is there ſaid, to make him attainted there muſt be an Overt Act, and that Overt Act muſt be fully and clearly prov'd: *Et de ceo provablement ſoit attaint de Overt Fait.*

My

My Lord *Coke*, in his Third Inſtitutes, Fol. 12. in his Comment upon that Act, explains the Word (*Provablement*) by ſaying, it muſt be upon direct and manifeſt Proof, not upon conjectural Preſumption, or Inference, or Strains of Wit; *It muſt not be commune Argumentum.*

Since that Time, ſeveral other Statutes have been made in Favour of the Subject, and for regulating Trials in Caſes of High Treaſon: Particularly the late Statute *7mo Gulielmi 3ti*, which enacts, that there muſt be Two lawful Witneſſes to the ſame Overt Act; or one of them to one, and the other of them to another Overt Act of the ſame Species of Treaſon: And that no Evidence ſhall be admitted or given of any Overt Act that is not expreſly laid in the Indictment.

I think we need not, at preſent, enter into the whole of the Caſe, or trouble the Court with a long Detail of Circumſtances and many Witneſſes; but rather chuſe to leave that on the Foot Mr. *Hungerford* hath put it for your Lordſhip's Conſideration.

It muſt be admitted to us, that if the Priſoner is not Guilty of an Overt Act, legally prov'd to be committed in the County of *Eſſex*, where the Species of Treaſon and all the Overt Acts in the Indictment are laid; though all the other Facts in *Middleſex*, or at *Rome*, or any where elſe, ſhould be never ſo clearly made out, yet they do fail upon this Indictment, and the Priſoner muſt be acquitted.

What have they to charge him with ſuch an Overt Act? Nothing, but the ſingle Evidence of *Lynch!* He is the only Perſon that ſpeaks to this Point. — He ſays, that they ſet out from *Aldgate* in Order to ride to my Lord *North* and *Grey*'s, and alighted at the *Green Man*; that what Diſcourſe paſs'd between them there, was before Dinner: He owns he went down Stairs twice before Dinner, and ſpent ſome Time in looking out of the Window, to ſee ſome Perſons with whom he was acquainted, and when the Dinner (which was ſoon got ready) was brought up, Mr. *Layer*'s Servant came and waited, and no Diſcourſe paſs'd there during that Time. He tells you, that Mr. *Layer* pull'd a Paper out of his Pocket, and ſhew'd it to the Witneſs, who read Part of it, and that it contain'd treaſonable Matter, as laid in the Indictment: This is the Subſtance of what *Lynch* ſwears, I took it as well as I could, in Writing from his Mouth.

Now my Lord, Is this ſufficient to convict this Gentleman of committing an Overt Act of High Treaſon in *Eſſex*? A bare pulling a Paper out of his Pocket, and giving it him to read, where ſuch and ſuch a Thing is ſet forth, as by him is call'd a treaſonable Declaration!

My Lord, If he had pull'd out of his Pocket the moſt treaſonable Paper that ever was invented, is it any more than publiſhing a Libel? Is that an Overt Act of Treaſon? I will ſuppoſe it a Copy of the Pretender's Declaration, or an Original, ſuch a one as was burnt by the Sheriffs of *London* two Days ago: If a Man had that, and pull'd it out of his Pocket, and gave it to another to read, is this High Treaſon? I dare ſay, if any ſuch Perſon falls into Mr. *Attorney*'s Hands, he, that always does his Duty to the Crown as he ought, will go no higher than an Information for publiſhing a Libel; and all this, my Lord, is upon a Suppoſition that the Facts are true which have been ſworn by *Lynch*: But on the other Hand, there are ſo many unaccountable Circumſtances in the Relation, that an Affair of that Conſequence ſhould be tranſacted in ſuch a Place; in ſo ſhort a Time; upon ſuch an accidental Bait; when one of the Conſpirators was either gazing at the Window, or running up or down Stairs the greateſt Part of the while, and other Perſons were continually going backwards and forwards into the Room, or within hearing of every Word that paſs'd there, we think it carries with it ſuch an Air of Improbability, that no reaſonable Man can give Credit to it, much leſs, convict a Perſon of ſo great a Crime, upon ſuch Evidence.

But ſuppoſe what paſs'd at the *Green Man* (which I am very far from admitting) ſhou'd be adjudged an Overt Act of High Treaſon: How is it prov'd? Only by one Witneſs; one ſingle Witneſs to the Fact in this County! The Law requires two Witneſſes to convict a Man of High Treaſon, and that the Jury ſhou'd be return'd out of that County where the Facts are laid; *De Vicineto*; Becauſe the Law ſuppoſes them more connuſant of the Circumſtances of a Caſe which ariſes in their Neighbourhood: But if the Proof of one Overt Act in the County where 'tis laid, by one Witneſs, ſhou'd be ſufficient to let them in to prove other Overt Acts, in diſtant Countries, or in Foreign Kingdoms, theſe Fundamental Rules of Law wou'd be totally ſubverted: How is it poſſible for a Man to provide or defend himſelf againſt ſuch an Attack? Tis ſpringing a Mine upon him! Sudden and unexpected Ruin!

Mr. *Attorney* won't ſhew any Precedent, where it ever was allowed to be good, that one Witneſs might prove the Overt Act in the County where it is laid, and that then they might give Evidence of Overt Acts committed in any other County: If your Lordſhip is of Opinion againſt us in this Particular, then we muſt beg leave to go farther, and obſerve upon the reſt of the Witneſſes they have called; Not only to take off their Credit, but to contradict them in a great meaſure.

There hath been a great deal of other Evidence given by them, but we muſt ſubmit it to your Lordſhip, whether it is Material his eſcaping from the Meſſenger's Houſe, and his being taken again in St. *George*'s *Fields*; and the Evidence begins to run thin, or elſe, I believe they would not have troubled the Court with thoſe Perſons to that which is no ways conducive to the Point now in Judgment; if your Lordſhip is of opinion with us, that this is not an Overt Act in *Eſſex*, and legally proved, being there is but one Witneſs, and attended with ſuch Circumſtances, then the Matter is at an End; but if your Lordſhip is of another Opinion, then we muſt beg leave to go on, and likewiſe to offer what we have from the Mouth of our Witneſſes.

Ld. Ch. Juſt. You muſt go on, You have mix'd your Diſcourſe ſo that no Body knows what to make of it; ſometimes tho' the Facts are clear as to the Overt Act, you have ſaid as much againſt, as for, the Improbability and Nature of the thing, in Point of Law, as for the other. I don't ſee how we ſhall come at it, unleſs you go thro' the Cauſe.

Mr. Soll. Gen. My Lord, in the Obſervations they have hitherto made, they have mix'd Objections as to the Fact, together with ſome Matters of Law, that ſeem to be aimed at, and fixed upon no Point; to which we cannot give any particular Anſwer; therefore we deſire they may go thro' their whole Caſe, before we reply to any Part of it.

Mr. *Hungerford.* Since it is your Lordſhip's Pleaſure that we ſhould now go on, I ſhall proceed to make ſome Obſervations upon the reſt of the Evidence given againſt the Priſoner at the Bar out of the County of *Eſſex*. The Obſervations which I ſhall make will be in the general only, for I cannot deſcend to all the particular Inſtances of the Evidence given, having not taken proper Notes for that Purpoſe; for I depended upon the Inſufficiency of the Evidence given touching any Act of High Treaſon, being committed in *Eſſex*; and I hoped that from that very Circumſtance the Priſoner would have been acquitted; but however I know the learned Gentleman who is joyned with me, hath taken very exact Notes of the whole Evidence, and therefore what I omit, I am aſſured he will abundantly ſupply.

The Second Witneſs produced againſt the Priſoner, is Mr. *Plunkett*, whoſe Evidence I think ought to weigh but very little with any Judicature whatſoever; the Priſoner's meeting with this Man was very accidental in *Lincoln*'s *Inn-Fields*, when they did not know each other, and yet they immediately entred into a Diſcourſe of raiſing a Rebellion, and overturning Two Kingdoms, and that great Secret of knowing who was to be the General; tho' Mr. *Lynch*, after long Acquaintance with the Priſoner, could not get it out of him; yet it was communicated to the eminent Witneſs Mr. *Plunkett* at the firſt Interview, with an Addition of mentioning the Names of two very great Men more, the Earl of *Strafford*, and General *Webb*, as well affected to the Undertaking: But that Noble Earl's and Great General's Services to their Country are too well known to be blemiſhed by ſuch an Incredible Evidence. After ſome Diſcourſe betwixt the Priſoner and *Plunkett* about the Undertaking, in which there was an Incident of a Diſcourſe of another Nature, whether the *Lutheran* Religion were not preferable to the *Popiſh*; and after (as *Plunkett* ſays) the Priſoner had communicated to him an Intention of invading the Kingdom by ſome Perſons from abroad, the Priſoner, in a very great Fit of Bounty, preſents Mr. *Plunkett* with the Sum of half a Crown. This Relation ſeems to be ſo improbable, and in Truth, is delivered (or rather ſtammered out) in ſo wretched and incoherent a Manner, that I believe that no One that heard it, believes a Word of it.

The Truth is, the Scheme it ſelf ſeems rather to be a Chimerical Plan of ſome Crazy-pated Polititians, than a ſolid Project of any Man of Senſe, or in their Wits. What Undertaking can there be ſo improbable, as that laid down by this Scheme, *viz.* Seizing the General of the Army, ſeizing the *Tower*, ſeizing the *Exchange*, and ſeizing the Bank of *England*; and all this with a Force which do not appear to conſiſt of above Three or Four Men? And for Money, the Sinews of War, there ſeems to be no great Stock of that; *Plunkett* hath about Half a

Crown

Crown at one Time, and half a Guinea at another; for as to the Guinea *Jeffreys* gave him, it doth not affect the Priſoner. Mr. *Lynch*, indeed, who ſeems to be a Man of greater Weight, upon his frequent repeating himſelf to be very uneaſy, got about Seven or Eight Guineas. I mention theſe Things, Gentlemen, of the Jury, to ſhew how improbable this Part of the Evidence is of it ſelf, and we hope to make it appear to you to be the more ſo, by the Evidence we ſhall produce to the Reputation of the Witneſſes.

As to the Papers of all Kinds produced as Evidence againſt the Priſoner, we hope he cannot be affected by them, none of them being proved to be of his Hand-Writing; as to the Arms found in the Priſoner's Houſe, they are no more than what Gentlemen uſually have for the Defence of their Family, or their Recreations; and as for his being at *Rome*, it is admitted that that Evidence is not given as a Fact of High Treaſon; ſo ought not to be conſidered as any Ingredient in the Priſoner's Guilt: As to the Priſoner's endeavouring to eſcape, it is no Evidence of the Priſoner's Guilt; I do not enter into the Conſideration, whether the Cuſtody of a Meſſenger is a legal Priſon, or no; but there is hardly a Man that is under any Confinement at all, but would willingly eſcape into Liberty: Beſides, the Priſoner hath ſuffered already for that Offence, if it be one; he hath been put into Irons, and his attempting to eſcape is the only Reaſon that is aſſigned for it.

There was ſomething ſpoke in the Introduction to this Accuſation which was very remarkable, *viz.* That it was a Deſign, if it had took Effect, that would have engaged the whole Nation in Blood, and would have deſtroyed our Civil and Religious Rights: We who are of Counſel for the Priſoner, have as great an Abhorrence of a Thing of that Nature as any Men can have: But yet we hope, that Mankind is not to be led away with Shew and Colour, but to be guided by Reaſon and Matters of Fact. Is is poſſible that People could have been raiſed into a Rebellion by a Proclamation which was never publiſhed, but by Mr. *Lynch*'s reading two or three Lines of it? and which, by Mr. *Lynch*'s own Evidence, (which I forgot to remark before) was imperfect; for he ſays, that the Priſoner told him, he intended to put it in the Pretender's Name, which it ſeems was not then done; and therefore what was produced, was at the utmoſt an imperfect Piece only.—— Or that the Priſoner at the Bar, a Man of a Gentleman-like Family indeed, but of no great Figure or Eſtate in the World, and having no Dependants or numerous Acquaintance, having no Proviſion of Men, Arms, or Ammunition, ſhould, with the Aſſiſtance only of a Bundle of Papers, and of Mr. *Lynch* and *Plunkett*, overturn and enſlave this whole Kingdom. God be thanked, the Proteſtant *Britiſh* Government is not ſo eaſily to be brought to Deſtruction: They might much ſooner, (and yet I think that very difficult too) have borrowed 100,000 *l.* of the Bank of *England*, upon the blind Notes which they have produced, ſent by Sir *William Ellis*, than have brought about a Revolution in this Kingdom with ſuch Materials as they ſeem to be poſſeſſed of.

Theſe Things therefore, my Lord, I urge are Circumſtances which render all, or the greateſt Part of the Evidence given, very improbable.

I ſhall cloſe the whole with two Paragraphs of a Speech made by one of your Lordſhip's Predeceſſors, my Lord Chief Juſtice *Scroggs*, ſitting in the ſame ſacred Seat of Juſtice, where your Lordſhip now ſits, the Words are theſe. *Ld. Ch. Juſt.* Scroggs *his Speech the firſt Day of* Michaelmas Term 1679. *printed that Year.*

If once our Courts of Juſtice come to be aw'd or ſway'd by vulgar Noiſe, and if Judges and Juries ſhould manage themſelves ſo as would beſt comply with the Humour of the Times, 'tis falſly ſaid that Men are tryed for their Lives or Fortunes; they live by Chance, and enjoy what they have as the Wind blows, and with the ſame Certainty.

Let us purſue the Plot a God's Name, and not baulk any Thing where there is Danger or Suſpition upon reaſonable Grounds; but not ſo over do it, as to ſhew our Zeal, we will pretend to find what is not; nor ſtretch one Thing beyond what it will bear, to reach another.

Mr. *Ketelbey*. I muſt beg Leave to go on where I left off with *Lynch*'s Evidence.

All *Plunkett* ſaith was in *Middleſex*, but whether he is a credible Witneſs, you will hear by and by. I cannot but take Notice of one Thing which is unaccountable in his Evidence, and renders it impoſſible to be true: He gives you an Account of a Letter which he received about Ten Weeks ago; he's very poſitive as to the Words of the Letter, I asked him over and over again to it, he repeats it as ſuch; when we examined him farther, it appears that he could neither write nor read; and how he came to remember ſo perfectly, when he could not write nor read

read himſelf, is very ſtrange. Why, ſaith he, it was read over to me twice, and we have heard him repeat it three Times; and I appeal to the Jury, if any one of them can take upon him to repeat it again with that Exactneſs the Witneſs pretends to do.

Is it not equally ſtrange, my Lord, that *Jeffreys*, a Man of Letters, the firſt Time he ſaw him, an ignorant common Serjeant in the Army, ſhould immediately fall into a Diſcourſe with him about a Plot, and raiſing a Rebellion, as if he had before been intimate with him? So likewiſe he ſaith of *James Plunkett*, the ſame Day, the firſt Day he came to him, he came to his own Houſe, and there talked to him about this Affair; as if they had Nothing elſe to talk of but Rebellion againſt the Government. And I ſubmit it to your Lordſhip and the Jury, whether it is likely or poſſible, that any Man of common Senſe ſhould ſubject himſelf in ſo dangerous an Affair to another that was an utter Stranger to him: But here he gives you an Account of two ſeveral Perſons under the ſame Imprudence, the ſame Infatuation, *James Plunkett*, and the Nonjuring Parſon. Beſides, there is a manifeſt Contradiction in his Evidence; for, at firſt he ſaid, that the Nonjuring Parſon told him his Name was *Jeffreys* the firſt Time he ſaw him; and afterwards being croſs examined, he ſaid, the firſt Time he knew his Name to be ſo was upon the Receipt of his Letter, and finding the Name ſo ſubſcrib'd.

The next Witneſſes gave an Account of the ſeizing the Papers, and then Mrs. *Maſon*. We asked her if thoſe Papers had been ſeen by any body ſince ſhe had them, and whether ſhe had ſhewn them, or any other Papers, to Sir *John Meers*, or any of his Servants? She poſitively denies it, and ſaith they were not.

I don't know whether theſe Papers were ſeen by any body, for we have not one Word of 'em in our Briefs, and the very producing them is a Surprize to us; but we ſhall prove, that this Woman ſhew'd ſome Papers to Sir *John Meers*, or his Man, and that thereupon Notice was given, and the Papers ſoon after ſeized. But whether theſe are they or not, I cannot tell. I obſerved before upon the Evidence of Mr. *Delafaye*, Mr. *Stanyan*, and Mr. *Doyly*; and tho' your Lordſhip was of Opinion, that it was ſufficient to have the Paper call'd the Scheme read, yet we hope 'tis far from being a concluſive Evidence againſt the Priſoner, it not being found in his Cuſtody; and we ſhall produce ſeveral who now are, and for many Years have been well acquainted with his Hand-writing, who will give your Lordſhip their Thoughts of it. I believe Mr. *Attorney* would not have endeavoured to call Witneſſes that it was ſigned by him, and was his own Hand-writing, if he had not thought it material; yet we hope, that when our Witneſſes are heard, no Credit will be given by the Jury to it, as a Fact to charge the Priſoner. We ſhall give you an Account, if my Inſtructions are true, that *Plunkett*, *Lynch*, and Mrs. *Maſon*, who are the Perſons chiefly concern'd in the Courſe of this Evidence, are of ſo ſcandalous and vile a Character, that no Regard at all is to be had to their Teſtimony. The moſt honeſt Men may miſtake in their Evidence, as Mr. *Stanyan* is pleaſed to ſay; if he made any Miſtakes, I am ſatisfied they proceeded from a Defect of Memory, and no Deſign, and he is certainly excuſable; but as for the other Three, *Lynch*, *Plunkett*, and *Maſon*, when you ſhall have heard half what we have againſt them, I dare ſay they will not have the leaſt Credit, tho' they had given a much more probable Evidence than they have done. But ſurely, as it is, their Evidence cannot have ſufficient Weight with you, to prevail againſt the Life, Eſtate, and Family of the Gentleman here before you, and to fix a perpetual Stain upon him and his Poſterity.

Mr. *Hungerford*. My Lord, we ſhall call our Witneſſes, and begin with my Lord *North* and *Grey*.

Mr. *Att. Gen.* We deſire to know what it is you call my Lord *North* and *Grey* to prove.

Mr. *Hungerford*. He is to give an Account of what paſſed at his Houſe, what Mr. *Lynch* ſaid when he was there.

Ld. Ch. Juſt. Then you do admit that he was at the *Green Man*, and he went to my Lord *North* and *Grey*'s afterwards.

Mr. *Ketelbey*. There is their Sheet Anchor.

Mr. *Hungerford*. We admit we were at the *Green Man*, but committed no High Treaſon there; your Lordſhip hath ſet us right in the Point of timing our Evidence in the Nature of this Tranſaction; it is proper to begin with the Maſter of the *Green Man*.

Mr. Mackreth *ſworn.*

Mr. *Hungerford*. Mr. *Mackreth*, pray give my Lord and the Jury an Account, whether Mr. *Layer*, or Mr. *Lynch*, were at your Houſe laſt Summer, or how long they were there.

Mr. *Ketelbey*,

Mr. *Ketelbey.* I think you are Maſter of the *Green Man.*

Mackreth. Yes, Sir, upon the Oath I have taken, I don't know that Mr. *Layer* was ever at my Houſe.

Mr. *Ketelbey.* Do you remember any thing of the *Saturday* the 25*th* of *Auguſt*?

Mackreth. No, I can't.

Mr. *Ketelbey.* Do you remember whether you were at home that day?

Mackreth. I can't tell: If it was on a *Saturday*; on *Saturday* I often attend the Juſtices at *Ilford.*

Mr. *Ketelbey.* Do you know whether you was at home that day?

Mackreth. I cannot tell.

Mr. *Ketelbey.* Do you know Mr. *Layer*?

Mackreth. I never ſaw him before in my Life, as I know of.

Mr. *Ketelbey.* Was there never any Enquiry after him at your houſe?

Mackreth. No: There was the Duke of *Grafton* and my Lord *Halliſax* came to my houſe ſome time ſince. The Duke of *Grafton* intimated ſomething of this Affair; the Duke of *Grafton* ſaid to me, You are to be hang'd: Hang'd, for what, ſaid I. You and your Friend *Layer* are to be hang'd. Said I, I never ſaw him in my Life. They walk'd to and fro in the Hall. What, ſaid they, do you know nothing of this *Layer*? No, I don't, as I hope to be ſav'd, directly nor indirectly.

Mrs. *Mackreth* ſworn.

Mr. *Hungerford.* Pray do you remember any Travellers at your houſe upon the 25*th* of *Auguſt* laſt?

Mr. *Ketelbey.* Do you remember when Mr. *Layer* was at your houſe?

Mrs. *Mackreth.* I never ſaw the Gentleman in my life, as I know of.

Mr. *Ketelbey.* Are you conſtantly at home?

Mrs. *Mackreth.* Yes, I have hardly time to go to Church.

Mr. *Ketelbey.* Did you ever hear any thing of a Declaration read?

Mrs *Mackreth.* I never heard any thing of it in my days, my Lord.

Mr *Hungerford.* Pray this; Do you know the Room one Pair of Stairs forward in your Houſe?

Mrs *Mackreth.* They are all forward, my Lord.

Mr *Hungerford.* How far is the Bar from the Room?

Mrs *Mackreth.* My Bar is below ſtairs even with the Stair-caſe.

Mr *Hungerford.* If any thing is read there aloud, in any of thoſe Rooms one Pair of Stairs, could you have heard it?

Mrs *Mackreth.* To be ſure, my Lord.

John Paulfreeman ſworn.

Mr *Hungerford.* Do you remember any thing of this Gentleman being at your Maſter's Houſe on the 25*th* of *Auguſt* laſt?

Paulfreeman. I remember nothing at all of it.

Mr *Hungerford.* You remember nothing of it.

Paulfreeman. No; To my knowledge I never ſee him before in my life.

Mr *Hungerford.* Do you remember any thing of ſome People dining there on a Beef-Stake?

Paulfreeman. No; I don't remember any thing of it.

Mr *Hungerford.* Do you remember this Gentleman's Face again?

Paulfreeman. No; I don't remember that ever I ſaw him before.

Mr *Hungerford.* Is my Lord *North* and *Grey* there?

Mr *Hungerford.* We ſhall examine my Lord *North* and *Grey* only as to ſome Paſſages at his Lordſhip's Houſe, and chiefly as to the Character of this *Lynch*, and what a Character he gave of himſelf; generally, a Man will give a good Character of himſelf, but he did otherwiſe.

Lord *North* and *Grey* ſworn.

Mr *Hungerford.* If your Lordſhip pleaſes to give my Lord and the Jury what account you have of one *Lynch.*

Ld. *North* and *Grey.* My Lord, that Gentleman that goes by the Name of *Lynch*, I ſaw twice; he came twice to my Houſe in *Eſſex*: I little thought that my having ſeen him twice at my Houſe, ſhould be the occaſion of my coming here in ſuch a manner. The Gentleman was wholly a Stranger to me, and I have never ſeen him ſince. As to my ſelf, I cannot ſay I know any thing of him perſonally. The only thing I can ſay, is what he ſaid of himſelf. It is a little hard for a Man of Honour to betray Converſation, what paſs'd over a Bottle

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a Bottle of Wine in Diſcourſe; but ſince your Lordſhip requires it, I muſt ſubmit.

The chief of our Diſcourſe was— He was repreſented to me as a Stranger newly come to *England*, and had a mind to ſee my Houſe and Gardens. He was introduc'd, and brought there accordingly by Mr. *Layer*, and I receiv'd him civilly. In proceſs of time he told me the Hiſtory of his Life, thus; That he was not a *Spaniſh*, but an *Iriſhman*, and, my Lord, I think, educated in the Camp under an Unkle of his. He told, that when he was a young Man, he had taken a great many Liberties.

Mr Serj. *Pengelly*. My Lord, we humbly apprehend, this Evidence is not proper to be given: If they have any particular Queſtions to ask of my Lord, let the Counſel propoſe them, or ask my Lord *North* and *Grey* to the Character of *Mr. Lynch* in general: But thus to give an Account (by way of Repetition of a Diſcourſe between Lord *North* and *Grey* and Mr. *Lynch*,) where he was born, and where he was bred up, and to give a Hiſtory of particular Facts, is what they ought not to do.

Ld. *North* and *Grey*. I am glad to be interrupted by that worthy Gentleman. I only deſire to know to what Points you would be pleas'd to ask me.

Ld. Ch Juſt. Mr. *Hungerford*, you know what the Rule of Practice and Evidence is, when Objections are made to the Credit and Reputation of the Witneſs; you can't charge him with particular Offences: For if that were to be allow'd, it would be impoſſible for a Man to defend himſelf. You are not to examine to the particular Facts to charge the Reputation of any Witneſs; but only in general you are to ask what his Character and Reputation is.

Mr *Hungerford*. My Lord *North* and *Grey* is an entire Stranger to him; but he was only going to tell you what Account *Lynch* gave of himſelf.

Ld. Ch. Juſt. That is very well. Conſider, if that is not the ſame as if you were to charge him with particular Facts. You ſay, he himſelf, when he was with that Noble Lord at his Houſe gave a Character of himſelf much to his diſadvantage. It is impoſſible for him in ſuch a caſe to give an Anſwer to it; therefore by the Rule of Evidence you cannot do it.

Mr *Ketelbey*. If that Noble Lord was going to give any Character of him which he heard from other Perſons, it might alter the caſe. But ſurely when the Character he gives of him is grounded upon what he ſaid of himſelf, is not that much ſtronger than the Hearſay of others, the Talk of Strangers? The Character he had of this Perſon is from himſelf; therefore we hope he ſhall give it in Evidence.

Mr *Hungerford*. If they won't let this Noble Lord enter into a Relation of what Character this *Lynch* gave of himſelf, we cannot help it.

Ld. Ch. Juſt. You know, if there be any Objections to him, to his general Character, he can anſwer them: But if Objections are grounded on particular Charges of his being a baſe, an infamous and an ill Man, not having any notice of this, it is impoſſible for him to defend himſelf.

If you will ask my Lord *North* and *Grey* what general Character he gave of himſelf, you may.

Mr *Hungerford*. If my Brief be true, the whole Ten Commandments broken by him.

Ld. Ch. Juſt. Very well; and ſo you charge him with the Breach of the Ten Commandments, and he muſt let it go for Fact, becauſe he cannot have an opportunity of defending himſelf.

Mr *Ketelbey*. What Character in general did he give of himſelf to your Lordſhip?

Ld. *North* and *Grey*. I don't know how to anſwer it, as to his giving a general Character of himſelf. Thus much I muſt ſay, I ſaw him twice. The firſt time he was brought down by the Gentleman at the Bar; the ſecond time he came, he was ill receiv'd; and I order'd it ſhould be told him, that in caſe he deſign'd to ſtay there, that I had no room or any Lodging for him. As to particular things, I don't care to ſpeak of them. I ſhould be very ſorry to ſay it when it was ſaid in my Company, and under my Roof.

Mr *Hungerford*. We will not preſs it any further.

Ld. *North* and *Grey*. I muſt beg your Lordſhip's leave, if the Gentlemen have

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no further to ſay to me, and your Lordſhip have no further Commands, that I may return to my Priſon.

Mr *Hungerford.* I hope they will make way for my Lord *North and Grey* through the Crowd: And, if your Lordſhip pleaſes, we will go on with our Evidence.

George Talbot ſworn.

Mr *Hungerford.* Pray give my Lord and the Jury an Account of what you know of Mr. *Lynch.* —— Mr. *Stephen Lynch,* What Character hath he?

Talbot. Why Sir, the Character I know of him is this, That he is a Man that hath been ſo Extravagant, that he hath brought himſelf to Neceſſity by it; kept very infamous Company.

Mr *Hungerford.* What Character hath he? Hath he the Character of an honeſt Man.

Talbot. He hath a very indifferent ſort of a Character.

Mr *Hungerford.* Hath he got a Good or a Bad Character?

Talbot. The Character I can hear of him is a very bad Character.

Mr *Ketelbey.* We don't ask you as to the Particulars of his Life and Converſation, but only the General Character he hath, and the Opinion the World hath of him; whether he hath the Character of an honeſt Man, and is a Perſon fit to be believ'd?

Talbot. The Character I have had of him, is, That he is not to be believ'd.

Mr *Att. Gen.* How long have you known him?

Talbot. I have not ſeen him theſe Six Years.

Mr *Att. Gen.* What is your Employment?

Talbot. I am not able to follow any thing now.

Mr *Att. Gen.* He ſays he hath not ſeen him theſe Six Years. How long ago was your Acquaintance with him?

Talbot. I met with him at the *Canaries,* when I was coming from thence, which is about Six Years ago; I know nothing of him ſince, but what I have heard of him.

Mr *Att. Gen.* Have you ever had any Dealings with him?

Talbot. I never had much Dealings with him, what I have had have been very little to my Advantage.

Mr *Ketelbey.* If Mr. *Attorney* deſires the Particulars——.

Mr *Hungerford.* We conform our ſelves to your Lordſhip's Rule, to ask only to the General Character of the Man. But if Mr *Attorney* will enter into Particulars, we will joyn Iſſue with him, and go into that Method too.

Mr *Att. Gen.* I ask'd him how long he had known him, he ſays he had not ſeen him theſe Six Years.

Mr *Ketlebey.* Have you had a Character of him?

Talbot. The worſt I could ever hear of any Perſon; I know nothing of my ſelf, but what I have heard from others.

Mr *Winchman* ſworn.

Mr *Hungerford.* Pray give my Lord and the Jury an Account of what you know of this *Stephen Lynch.*

Winchman. I knew this Gentleman Fourteen Years ago, in the Iſland of the *Canaries,* there he kept an *Iriſh* Gentleman Company, one *Wilſon*; he was then well belov'd by every Body: The Gentleman took him into his Company, and afterwards he grew Extravagant, and the Gentleman turn'd him out of his Company.

Mr *Hungerford.* Is he accounted an honeſt Man or a Knave?

Winchman. I will not truſt him for any Thing.

Mr *Hungerford.* You ſay you won't truſt him for any Thing.

Winchman. No.

Mr *Hungerford.* The wiſer you.

Mr *Ketlebey.* Is he a Man to be credited, can you believe what he ſays?

Winchman. I think I would not believe him.

Mr *Ketelbey.* You are right.

James Darcy ſworn.

Mr *Ketelbey.* How long have you known Mr *Stephen Lynch?*

Darcy. About a Twelve month.

Mr *Ketelbey.* I don't ask you as to his particular Life and Converſation, but in general what is his Character, is he a Man to be believed or credited?

Darcy.

Darcy. I don't take it that he is.

Mr *Att. Gen.* Where did you know him?

Darcy. I firſt knew him laſt Winter in *London.*

Mr *Hungerford.* Is Mr *George Fitzgerald* there? My Lord, here is a Complaint made that the Witneſſes can't be let in.

Ld. Ch. Juſt. They muſt be let in.

Mr *Soll. Gen.* Who made the Complaint?

Mr *Hungerford.* A Gentleman here in Court.

Mr *Soll. Gen.* It is the Buſineſs of your Sollicitors to take care that way be made for your Witneſſes.

Mr *Hungerford.* It is not the Buſineſs of your Witneſſes to ſtop the Paſſage.

Mr *Soll. Gen.* They don't ſtop the Paſſage.

Mr *Huugerford.* No; What is your buſie Colonel there [pointing to Col. *Huske*] a doing?

Mr *Serj. Cheſhyre.* We muſt ſtay here half an Hour for every Witneſs.

Mr *Fitzgerald* did not appear, then Mr *John Blake* was ſworn.

Mr *Hungerford.* Mr *Blake*, do you know *Stephen Lynch*?

Blake. Yes Sir.

Mr *Hungerford.* Pray give my Lord and the Jury an Account of him whether he is a Perſon to be believ'd or not.

Blake. I heard a very ill Character of him about Six Years ago. I have heard that he married Two Wives.

Mr *Hungerford.* Is he to be believ'd or no?

Blake. I know nothing but by Hear-ſay, I believe he is not to be believ'd, becauſe I have heard ſuch a baſe Character of him.

Collins ſworn.

Mr *Hungerford.* Will you give my Lord and the Jury an Account of what you know of *Stephen Lynch*?

Collins. Sir I never exchang'd a Word with him.

Mr *Hungerford.* What Character hath he?

Collins. A very Infamous Character. I know by Eye-ſight only, I have ſeen him upon the Exchange of *London.*

Priſ. Is he a Perſon to be ctedited or not?

Collins. No, I beleive not.

Mr *French* ſworn.

Mr *Hungerford.* Do you know *Stephen Lynch*?

French. I know him by Eye-ſight.

Mr *Hungerford.* What Character hath he, is he a Perſon to be believ'd upon his Oath?

French. I don't think he is.

Mr *Hungerford.* How long have you known him?

French. Six or Eight Months.

Mr *Kelley* and Mr *Blake* ſworn.

Mr *Ketelbey.* Mr *Kelley* how long have you known *Stephen Lynch*?

Kelley. I believe I have known him ſince the Beginning or Middle of *April* laſt.

Mr *Ketelbey.* What is his Character, is it an honourable Character?

Kelley. I never heard any give him a Character that was not very vile.

Mr *Ketelbey.* Mr *Blake*, how long have you known *Stephen Lynch*?

Blake. Sir, I never had any Acquaintance with him, but I have heard he hath a vile Character.

Mr *Hungerford.* Have you had any Diſcourſe about this Trial, have you heard any thing ſaid by *Lynch* himſelf, about the Matter that is now in Judgment before this Court?

Blake. There was one Mr *French*, a particular Acquaintance with *Lynch*; I met Mr *French*, hearing he was of the ſame Inn with me, (I belong to the Middle Temple) and told me he wanted Money.

Mr *Soll. Gen.* You know what he told you is not Evidence.

Blake. Saith he, there is one Mr *Lynch* owes me a good deal of Money, and I want to go and ſee him, and I have no mind to go there by myſelf. Next day I conſented to go along with him, as thinking there could be

no

no Danger in that: When we came to him, I ſuſpect, ſays Mr *Lynch*, that you come for ſome Money that I owe you. Upon that he deſir'd him to ſit down, and told the Gentleman he was ſorry he had diſappointed him. Then he begun to talk of my Lord *North* and *Grey*, and my Lord *Orrery*, and Mr *Layer* I believe I ſhall hang him; but as to my Lord *North* and *Grey*, and my Lord *Orrery*, I know nothing of Them: I know nothing more of Mr *Layer*, but what I had from him himſelf. Some Words paſs'd between him and me, and talking of my Lord *Townſhend*, he ſaid my Lord *Townſhend* was of a Morroſe Temper, but my Lord *Carteret* was of a better Temper.

Mr *Ketelbey*. Speak to the Purpoſe; I deſire to know what you can ſay of Mr *Lynch*'s Character?

Blake. I don't know any thing of *Lynch*, but that he is of an infamous Character.

Mr *Ketelbey*. What did he ſay of Mr *Layer*?

Blake. He ſaid he would hang him.

Mr *Ketelbey*. Did he ſay any thing about the vileneſs of the Plot or why or how far he thought it his Duty to diſcover ſuch Villany?

Blake. No, I don't know of any ſuch thing. I heard him ſay, My Circumſtances are very Poor; and the Motive that induc'd him to do this, was to ſave the Lives of a Thouſand People.

Mr *Hungerford*. Did he ſpeak any thing of getting Money?

Blake. No, I can't ſay any ſuch thing.

Ld. Ch. Juſt. That is not a fair Queſtion.

Blake. I can inform your Lordſhip more: Saith he, I was forc'd to do this; but if I had got off from this Affair; I wou'd fight any Dozen People in *London* to come off from it.

Mr *Soll. Gen*. Where do you live, Sir? Do you live in the Middle Temple?

Blake. No; I live at Mrs *Ireland*'s in *Portugal-ſtreet*.

Mr *Hungerford*. In the Converſation you had with *Lynch*, was there talk of any Money he was to have?

Mr *Soll. Gen*. You ask'd him that Queſtion before, and was told it was not a fair Queſtion.

Mr *Hungerford*. I think I did not.

Blake. Sir, I went to ſee Mr *Lynch* on Account of ſome Money which I lent him, and when he was taken up in *Mancheſter-Court* I went to ſee him; there he receiv'd me civilly, I took him aſide and ask'd him for my Money. I told him ſo freely, and ask'd him how he got Money and ſeveral fine Clothes which he had; he told me a Lady us'd to come twice or thrice a Week to viſit him, and this Lady was the Miſtreſs or Daughter of one of the Chief Miniſters of *England*; he ſaid this Woman ———.

Ld. Ch. Juſt. You muſt not put him in this way.

Mr *Ketelbey*. Have you given an Account of the Character of this *Lynch*? I only ask you the General Character.

Blake. I have told you already.

Priſ. I have Two or Three more to the ſame Purpoſe.

Terry ſworn.

Priſ. How long have you known *Lynch*?

Terry. Seven Years.

Priſ. Hath he the Character of an honeſt Man.

Terry. He hath the Character of being a looſe Young Fellow; that is all I know of him.

Priſ. Is his Character Good or Bad?

Terry. His Character is Looſe.

Mr *Hamilton* ſworn.

Priſ. Do you know this *Stephen Lynch*?

Hamilton. Yes.

Priſ. What Character is he of, is he to be believ'd?

Hamilton. No, I believe not; I was cautious of keeping him Company; I believe him to be of a vile infamous Character, that will do or ſwear any thing.

Mr *Hungerford*. We leave the Character of this *Lynch* here, with the Weight of the Blemiſhes charg'd upon him by our Witneſſes, to the Conſideration of the Jury.

There is another of the Witneſſes, Mr. *Plunket*, to whoſe Character we ſhall likewiſe examine. We ſhall call a Witneſs or two to that matter, and then we ſhall cloſe.

Mr. *Thomas Brown* ſworn.

Mr *Ketelbey*. Do you know *Plunkett*?

Brown. Yes, I have known him theſe ten Years.

Mr *Ketelbey*. What is his general Character?

Brown. He hath but an indifferent Character.

Mr *Ketelbey*. Is he a Man to be believ'd?

Brown. No, my Lord, I don't believe he is.

Mr Keating ſworn.

Mr *Ketelbey*. Have you known *Mr Plunket*, and how long?

Keating. I never had any knowledge of him before the Beginning of *July* laſt.

Mr Ketelbey. What Character and Reputation hath he? Hath he a good or an ill Character?

Keating. I will tell you: About the Beginning of *July* laſt a Man that ow'd me ſome money on a Note of his Hand ——

Mr Soll. Gen. My Lord, we muſt oppoſe the going into Particulars; they know they are confin'd to examine as to his general Character only.

Mr Hungerford. But if the Gentleman will follow ſome of your Examples, and introduce himſelf by Prefaces, we can't help it.

Ld. Ch. Juſt. To a general Queſtion you muſt give a general Anſwer.

Keating. The knowledge I have had of him, I never knew any thing tolerable in his favour; I never heard a good Character of him.

Mr Ketelbey. Did you ever hear a bad one?

Keating. Yes, a very bad one, that he was a drunken idle Fellow, always kept company with other Women.

Mr Ketelbey. And from the Character you have had of him, do you think there is any credit to be given to him?

Keating. No, I don't think there is.

Mr Hungerford. My Lord, here we produce a Man of Quality, Sir *Daniel O Carroll*.

Sir *Daniel O Carrol* ſworn.

Mr Hungerford. Do you know *Plunkett*?

Sir *Daniel*. Yes Sir, I do.

Mr Hungerford. Pray what is his general Character?

Sir *Daniel*. I can give no good one of him; for it is a mighty bad Character he hath; He caus'd his Colonel to be brought to Town to be examin'd——

Mr Ketelbey. I only ask you in general; don't enter into the Particulars: I only ask in general, from the Character he hath in the World, do you look upon him as a competent Witneſs to be believ'd againſt another Man?

Sir *Daniel*. I would not take his Evidence to hang a Dog.

Mr Hungerford. And here he attempts to hang a Proteſtant.

Mr Thomas Spelman ſworn.

Mr Ketelbey. Do you know this *Plunkett*, and how long have you known him?

Spellman. I have known him ſeven or eight Years.

Mr Ketelbey. What is his general Character in his Life and Converſation?

Spellman. I never knew any ill done by him.

Mr Ketelbey. What is his Character?

Spellman. I can't give any Character of a Man I don't know. All I know of him, is about a Diſpute between him and Sir *Daniel Carroll* about a Horſe, and his deſiring the Lawyer to ſue Sir *Daniel*.

Mr Hungerford. Did he not ſay ſomething before that?

Spellman. He ſaid, the Lawyer he employ'd would do him juſtice.

Mr Att. Gen. You ſay you don't know any ill Character of him.

Spellman. No, I don't.

Edward Barnwell ſworn.

Mr Hungerford. Do you know this *Plunkett*, what is his Character?

Barn-

Barnwell. Pray let me tell you, I have been examin'd twice upon this Account. The firſt time that I brought *Plunkett* to be acqnainted with Mr *Layer*, Mr *Layer*'s Man brought me word and ſaid, Mr *Layer* had his Goods ſeiz'd wrongfully; upon that I ſent *Plunkett* to the *Savoy*, to have two Soldiers from thence; and I ſaid, Go to Mr *Layer*'s Houſe, there are ſome Bailiffs that have wrongfully ſeiz'd his Goods, you muſt go and turn them out. He did go with the Soldiers, and turn'd the Bailiffs out of the Houſe; upon which Mr *Layer* gave him Half a Crown: After this Mr *Plunkett* had no Friend but me; and he came and preſs'd me, and deſir'd me to apply to Sir *Daniel Carrol*, for ſome Money he ſaid he ow'd him for a Horſe. I told him I thought it was wrong to preſs Sir *Daniel* upon that Account.

Then about Eight Months ago he come to me, and ſaid he had met Mr *Layer* in *Lincolns-Inn-Fields*, and that Mr *Layer* did not know him; I told him, ſays he, I am one of thoſe that ſerv'd him at ſuch a time, and that he had given me Half a Crown, and that then Mr *Layer* remember'd him. This is all I know; I'm ſworn, and will tell the Truth.

Mr *Hungerford.* Is he a Man as may be believ'd, even upon his Oath, or not?

Barnwell. I muſt tell you, that I found him in ſo many Miſtakes about his own Wife, that, by God, I would not take his Word for a Half-peny.

Mr *Hungerford.* This contradicts what Mr *Plunkett* ſays paſs'd between him and Mr *Layer* in *Lincolns-Inn-Fields*, with reſpect to the giving him Half a Crown, it ſeems to be for former Service.

Ld. *Ch. Juſt.* How doth it? I'm to learn again. *Plunkett* ſwore, that he came with him under a Gate-way, and there, after he had talk'd with him, he gave him Half a Crown. This Gentleman owns he gave it to him for the Service he had done at ſome diſtance of time before.

Mr *Hungerford.* Go on, but don't ſwear by God any more.

Barnwell. I am a Soldier, a Man of Honour, of Eighty Years of Age, and would not do an ill thing for the World.

Gentlemen, as I have been ſent for by the Miniſtry, and examin'd in the Council, it hath been ſaid, Mr *Plunkett* hath made me write a Letter to his own Captain; and theſe Men were oblig'd to give in Bail, and he would pay for the Charges.

Mr *Ketelbey.* What did Mr *Plunkett* ſay to you, in relation to what paſs'd between You and Mr *Layer*?

Barnwell. He told me Mr *Layer* gave him Half a Crown, in kindneſs for the Service he had formerly done him, in turning the Officers out of his Houſe.

Mr *Matthew Phylips* ſworn.

Priſ. Do you know *Plunkett*?

Phylips. Yes.

Priſ. What Character hath he?

Phylips. I think, by what I have known by him, he is not to be believ'd.

Priſ. Is that his General Character?

Phylips. It is, that every Body gives him that knows him.

Alexander Phylips ſworn.

Mr *Ketelbey.* Do you know *Plunkett*?

Al. Phylips. Yes.

Mr *Ketelbey.* How long have you known him?

Al. Phylips. I have known him about Eleven Weeks.

Mr *Ketelbey.* What Character hath he?

Ld. *Ch. Juſt.* I never heard the like; when you give the Character of a Man, you give that Character by Men that have not known him above Eleven or Twelve Weeks.

Mr *Hungerford.* Have you ever had any Dealings with him?

Al. Phylips. No, not I, but my Uncle hath.

Ld. *Ch. Juſt.* Moſt of your Witneſſes have known him but a little time, Seven Weeks, Eight Weeks, Eleven Weeks, *&c.* It would almoſt make a Man ſuſpect, that ſome People have been ſet up on purpoſe to give an ill Character of theſe People on this occaſion. To talk of Seven or Eight Weeks Acquaintance?

Mr *Hungerford.* That Man is crowded in I don't know how, but Sir *Daniel Carroll* is tumbled about and cannot get out; Sir *Daniel* is a Gentleman of Merit, and as ſuch hath been diſtinguiſh'd by the Government, and ought to be treated a little better.

Patrick

Patrick Mahone ſworn.

Mr *Ketelbey*. What Character hath Mr *Plunkett*?

Mahone. I have known Mr *Plunkett* ſeveral Years, and that he was an idle broken Man, and a great Lyar, and not to be believ'd.

Mr *Hungerford*. He would lye before and behind, I think you ſay.

Mahone. Yes, he did.

Mr *Ketelbey*. Do you think he is to be credited, if he comes to give Teſtimony againſt a Perſon?

Mahone. Upon my Word I think he is not, by what he told me; becauſe I have found him to lye backwards and forwards.

Mrs *Child* ſworn.

Mr *Ketelbey*. Mrs *Child*, Pray have you had any Diſcourſe lately with Mr *Plunkett* the Serjeant?

Mrs *Child*. I never had any Diſcourſe with him but that Day my Husband was confin'd, when I run to look for Mr *Plunkett*'s Wife, and *Plunkett*'s Wife was not at home, but was gone to ſee her Husband at the Meſſengers; I went thither; Mr *Plunkett* hearing I was at the door, he deſired that I ſhould come in. Saith he, *Mrs Child*, how comes it that your Husband doth not come to ſee me? You know, ſays I, upon what account my Husband abſents himſelf. Why, he is not taken up yet? Yes, ſays I, he is, and confin'd upon your account. He takes me by the hand, he takes me into the Coal-Hole, and Take notice what I ſay to you, and get to your Husband, and tell him quickly. And he told me, that he took my Husband to a Lawyer that was going to pay off the 18 *l.* that Sir *Daniel Carroll* ow'd him, and the Lawyer would not ſee him, and ſo they came away together.

Mr. Att. Gen. She ſpeaks much to the purpoſe: For ſhe confirms what Mr. *Plunkett* ſwore.

Mr. *Ketelbey*. What did *Plunkett* ſay?

Mrs. Child. He ſaid, he was going to get a Settlement for Life.

Mr. *Ketelbey*. What was he to get a Settlement for?

Mrs. Child. For what he ſaid of Mr. *Layer*, a Story he had told me of my Husband.

Ld. Ch. Juſt. You have call'd a great many Witneſſes to the Diſreputation of *Lynch* and *Plunkett*, to ſay they have generally ill Characters, and are vile infamous Fellows, and not to be believ'd; and there is the ſubſtance of all your Evidence if you ſtay here till to morrow morning.

Alice Dunn ſworn.

Mr. *Ketelbey*. Do you know what Character *Plunkett* hath?

Alice Dunn. His Character I had from himſelf, that he liv'd with another Man's Wife.

Mr. Ketelbey. Hath he a good or bad Character?

Alice Dunn. He hath a bad Character.

Mr. Ketelbey. Is he to be believ'd?

Alice Dunn. No, he is not to be believ'd.

John Richmond ſworn.

Mr. Ketelbey. Here, *Richmond*, have you ſeen *Plunkett* lately?

Richmond. No.

Mr. Ketelbey. How long is it ago ſince you ſaw him?

Richmond. About Three Weeks ago and more.

Mr. Ketelbey. What diſcourſe had you with *Plunkett* at that time when you ſaw him?

Richmond. *Plunkett* ask'd me if I was a Servant of *Mr. Layer*'s? I ſaid, I was; and in diſcourſe I ask'd him if he had ever receiv'd any Money of *Mr. Layer* for the uſe of the Pretender? He kneel'd down upon his Knees, and ſtruck himſelf upon his Breaſt, and ſaid, he never had receiv'd any money of *Mr. Layer* for the Uſe of the Pretender in his Life time.

Mr. Ketelbey. How long is this? is it Three Weeks?

Richmond. I believe 'tis about Six Weeks ago.

Mr. Ketelbey. Who was preſent beſides you?

Richmond. There was no body elſe in the Room.

Ld. Ch. Juſt. I would be glad to know, that he never receiv'd any money for the Uſe of the Pretender, What do you mean by that?

Rich-

Richmond. He kneeled down upon his Knees, and ſaid he wiſht he might be damn'd if ever he receiv'd any Money for the uſe of the Pretender.

Mr. *Hungerford.* Your Lordſhip may remember *Plunket* ſwore, that *Layer* gave him Half a Crown at one time, and other Money at ſeveral other times; and now he ſolemnly ſwears upon his bended Knees that he never received any Money for the Uſe of the Pretender, that is, upon his account.

Ld. Ch. Juſt. When you are drawing Conſequences from the Expreſſions, conſider what thoſe Expreſſions are: he ſolemnly proteſted that he never received any Money for the Uſe of the Pretender. It doth not appear that he did; nor did he ſay that he did. Well go on.

Mr. *Ketelbey.* My Lord, We will leave it here as to *Plunket:* We will beg leave to call ſome Witneſſes as to Mrs. *Maſon's* Character.

(*Mrs.* Clayton *ſworn.*)

Mr. *Ketelbey.* Do you know Mrs. *Maſon*, or Mrs. *Buda*, or Mrs. *Herbert*, or what do you call her?

Mrs. *Clayton.* I know her by all thoſe Names: *Buda* is the Name ſhe always uſed to go by, ſhe hath gone by the Name of *Maſon*, and *Bevan*, and *Herbert*.

Mr. *Ketelbey.* What is her Character and Reputation?

Mrs. *Clayton.* Very indifferent.

Mr. *Ketelbey.* Is it bad or good?

Mrs. *Clayton.* Very bad.

Mr. *Ketelbey.* Have you had any Talk with her at any time about Sir *John Meers* and his Man *Thomas?*

Mrs. *Clayton.* I have heard her ſay that ——

Mr. *Soll. Gen.* They are asking what the Witneſs hath heard Mrs. *Maſon* ſay at any time about Sir *John Meers* or his Man, which being to a particular Fact, ſurely is not a proper Queſtion.

Mr. *Hungerford.* What have you heard her ſay about any Papers?

Mrs. *Clayton.* I ſee her have a printed Book; I us'd to go often where Mrs. *Maſon* lodged; and going one Day there, I ſaw a Gentleman ſitting which was Mr. *Layer:* he had ſent a Porter for Mrs. *Maſon.* When ſhe came, ſays he, the Parliament Man I was ſpeaking of is not provided of the 300 *l.* I have a good mind to lend it him.

Mr. *Hungerford.* Pray how does Mrs. *Maſon* get her living?

Mrs. *Clayton.* By deluding young Women, and carrying them about for Money.

Mr. *Hungerford.* That is to ſay a Bawd; is it not?

Mrs. *Clayton.* Yes.

Mr. *Ketelbey.* Did you hear of any Rewards ſhe was to have by coming here?

Mrs. *Clayton.* She ſaid ſhe was to be paid, or elſe ſhe wou'd not do it.

Ld. Ch. Juſt. What do you mean? You have been ſo often admoniſh'd by the Court: but it ſignifies nothing. You are charging Mrs. *Maſon* with being a Bawd, when you ought only to enquire as to her general Character.

Mr. *Ketelbey.* I ask'd you generally the Queſtion, whether ſhe had a good or a bad Character.

Mrs. *Clayton.* I did anſwer that Queſtion.

Ld. Ch. Jus. At this rate the moſt innocent Perſons may be branded as the moſt infamous Villains; and it is impoſſible for them to defend themſelves.

(*Mrs.* Peirce *ſworn.*)

Mr. *Hungerford.* What do you know of this Mrs. *Maſon?*

Mrs. *Peirce.* I know I lodg'd in the Houſe where ſhe did lodge.

Mr. *Hungerford.* What Character hath ſhe? a good one or a bad one?

Mrs. *Peirce.* A very indifferent one.

Priſoner. Is ſhe to be believed or credited?

Mrs. *Peirce.* No, ſhe is not to be credited.

Mr. *Hungerford.* Had ſhe a good Reputation or an infamous one?

Mrs. *Peirce.* She hath a bad Reputation.

Mr. *Serj. Pengelly.* You have ſeen Mr. *Layer* there?

Mrs. *Peirce.* Yes.

(*Mrs.* Wilkinſon *ſworn.*)

Mr. *Ketelbey.* Do you know this Mrs. *Maſon?*

Mrs. *Wilkinſon.* I don't know Mrs. *Maſon*; but I know Mrs. *Bevan.*

Mr. *Ketelbey.* What Character hath ſhe?

Mrs. *Wilkinſon.* I know her to be a vile Woman, and doth not care what ſhe ſays, or what ſhe doth.

Mr. *Ketelbey.* Is that her general Character?

Mrs. *Wilkinſon.* Always ſince I have known her.

Mr. *Ketelbey.* How long is that?

Mrs. *Wilkinſon.* About two years.

(*Mr.* Dyer *ſworn.*)

Mr. *Ketelbey.* Mr. *Dyer*, do you know Mrs. *Maſon?*

Dyer. I know one *Bevan.*

Mr. *Ketelbey.* How long have you known her?

Dyer. She liv'd with me thirteen or fourteen Years ago.

Mr. *Ketelbey.* What was her Character then?

Dyer. She robb'd my Shop, and I ſent her to *Bridewell.*

Mr. *Ketelbey.* What is her Character and Reputation now?

Ld. Ch. Juſt. I deſire you to forbear this irregular Practice.

Mr. Hungerford. Is this Woman to be credited or not?

Dyer. I know nothing of that.

(*Mrs.* Baskett *ſworn.*)

Priſoner. Had you any Diſcourſe with Mrs. *Maſon?*

Mrs. *Baskett.* No, Sir, I don't know her.

Priſoner. Had you any Diſcourſe with her?

Mrs. *Baskett.* I don't know her.

Priſoner. Nor Mrs. *Buda?*

Mrs. *Baskett.* No, I don't know her.

Priſoner. Nor Mrs. *Bevan?*

Mrs. *Baskett.* I don't know her at all.

Priſoner. Do you know Mr. *Lynch?* Have you ſeen him lately?

Mrs. *Baskett.* I ſaw him laſt Night.

Priſoner. Did you hear him ſay what Reward he was to have for ſwearing againſt me?

Ld. Ch. Juſt. That muſt not be.

Priſoner. Did you not hear him ſay he was to have 500 *l.* for ſwearing againſt me?

Ld. Ch. Juſt. We have a Compaſſion for you, and therefore bear this from you, which we would not from any Body elſe.

Mr. *Soll. Gen.* My Lord, this is not to be endured. The Priſoner turns about to the Jury, and tells them that *Lynch* ſaid he was to have 500 *l.* a Year.

Mr. *Hungerford.* I believe the Gentleman that ſat next to him did not hear him.

Mr. *Wearg.* My Lord, I did hear him ſay to the Jury that *Lynch* ſaid he was to have 500 *l.* a Year.

Ld. Ch. Juſt. I muſt tell you, if you did but conſider of what little Conſequence it would be to you, you would not do it. When you thought fit to make him your Confident, carry him to the *Green Man* with you, and to my Lord *North* and *Grey*'s; and there he was entertain'd courteouſly by him; and do you come now to brand him with being an ill Man?

Priſoner. Lynch ſays himſelf that he did not know me till *June* laſt; and how could I have ſo much Friendſhip for him on ſo ſhort an Acquaintance?

Ld. Ch. Juſt. Then for this Woman, if you would do ſervice to your ſelf, prove the Packets are not under your Seal, and that you did not deliver them to her with your own hand: prove ſomething of that, and theſe Proofs will be of more ſervice to you than Ten thouſand of theſe Witneſſes.

Priſoner. My Lord, if I was admitted to prove, I can make it appear it is all a Sham and a Forgery.

Mr. *Hungerford.* It was never proved to be his Seal.

Ld Ch. Juſt.

Ld. Ch. Juſt. You are miſtaken. The Woman ſwore it was his Seal, and the Officers ſwore they were under the Seals when they ſeized them: and it is proved now to be his Seal, for the Seal is viſible.

Priſoner. How do they prove it to be my Seal? My Lord, it is not my Seal. I deſire Major *Barnwell* may be ask'd as to this Woman's Character.

Maj. *Barnwell.* I know her. She is a vile Woman: ſhe had like to have cheated me of 1500 *l.*

Priſoner. You are only ask'd as to her Character in general. Is ſhe a Woman to be credited or not?

Maj. *Barnwell.* No, ſhe is not.

Mr. *Ketelbey.* I hope you are ſatisfied with this general Anſwer.

Mr. *Hungerford.* They won't let us go into Particulars; that the Courſe of Practice won't allow.

Mr. *Ketelbey.* It is impoſſible for us to direct the Anſwers to the Queſtions.

(*Mr.* Lebatt *ſworn.*)

Priſoner. Mr. *Lebatt*, pray give my Lord and the Jury a general Account of this Mrs. *Bulla*, or Mrs. *Maſon*, whether ſhe ought to be credited or not, or gain Credit.

Lebatt. No. She would take any Body's Life away for the value of a Farthing.

Mr. *Hungerford.* Now, my Lord, we will cloſe our Evidence as to the Character of theſe Witneſſes againſt the Priſoner at the Bar. We hope we have prov'd their Characters to be ſo infamous, as no Jury upon Earth will believe them. Here is this to be obſerved ———

Priſoner. I beg pardon; here is a mighty talk of my Arms. I am ſo fortunate as to have a Perſon here that will give you an Account of them, and how they came to be brought thither.

(*Mr.* Bowers *ſworn.*)

Mr. *Ketelbey.* What Trade are you of?

Bowers. A Gunſmith.

Mr. *Ketelbey.* Did you make any Fuzees?

Priſoner. No; pray let me ask him. Pray give my Lord and the Jury an Account of a Blunderbuſs, a Fuzee, a Carbine, and Piſtols; what you know of them. Did not you owe me ſix Pound on a Note under your hand?

Bowers. My Lord, about five or ſix Months ago, Mr. *Layer* had a Law Suit for me: I ſold him a pair of Piſtols, and a little after I ſold him another pair. Mr. *Layer* had them for a Debt. He had in his Houſe two Guns. I promiſed Mr. *Bennett* a Gun when the Cauſe was over, inſtead of Money. I gave him one of thoſe Guns: there is another Gun, and a Muſket which Mr. *Layer* had of me.

Mr. *Layer* had a Note of mine for ſix Pound, which I owed him. I importun'd him to take a Carbine for a Man to ride with, and a Blunderbuſs for his Houſe, in order to ſet off this Debt; and I brought him them when he was going into the Country. I brought him ſome Powder, and I brought him three Dozen and a half of Cartridges.

Priſoner. Did I order you to bring them, or did you bring them of your own head?

Bowers. You bid me bring a Dozen and a half, or two Dozen; and I brought three Dozen and a half: the reaſon was, that I might ſhorten my own Debt.

(*Mr.* Raynham *ſworn.*)

Priſoner. Pray will you give my Lord and the Jury an Account of the Piece of Arms I had of you, and for what reaſon?

Raynham. I went with him to one Mr. *Prickard's* in *Friday-Street*, there was a Muſket in his Compting-Houſe; he ſaid he would diſpoſe of it: Mr. *Layer* ask'd him his price: he ſaid he would have fifty Shillings for it. Mr. *Layer* ſaid that was too much; ſays he, you ſhall have a tryal of it, and if your Siſter carries her Cauſe againſt Mr. *Watſon*, you ſhall give me fifty Shillings for it.

Priſoner. Did he put it on me, or did I deſire it?

Raynham. You ask'd him what it was worth, and whether he would diſpoſe of it?

Priſoner.

Priſoner. Did not he ſay ſeveral times that he wanted to diſpoſe of it, and deſir'd me to take it on thoſe Terms?

Raynham. Yes. He ſaid on that condition that your Siſter got her Cauſe you ſhould have it, and give him fifty Shillings for it.

(*Mr.* Samuel Steward *ſworn.*)

Priſoner. Mr. *Steward*, only give my Lord and the Jury an Account whether or no I was not intruſted with things of great Value, and what occaſion I might have for a few Arms; whether you don't know of Money put out on Mortgages?

Steward. Yes, to the Value of thirty or forty thouſand Pounds within theſe two Years.

Priſoner. Don't you think it reaſonable as to theſe Arms, that I ſhould have them in my Houſe to guard my Houſe.

Steward. I thought it very reaſonable.

Mr. *Huugerford.* My Lord, we have done with examining of Witneſſes to the Credit of the Witneſſes produc'd againſt the Priſoner; and leave that matter to the conſideration of the Jury.

Mr. *Ketelbey.* Pray Mr. *Steward*, do you look upon that Paper they call a Scheme, with the *French* Motto upon it. Before you look upon that Paper, I ask you if you are acquainted with the Hand-writing of Mr. *Layer*.

Steward. Yes very well.

Mr. *Ketelbey.* How long have you been acquainted with his Hand-writing?

Steward. Two Years and an half.

Mr. *Ketelbey.* Have you at any time ſeen him write?

Steward. Yes, a thouſand times.

Mr. *Ketelbey.* Do you believe that to be his Hand?

Steward. I do not believe it to be his Hand.

Priſoner. Is it like the Character I write?

Steward. Not at all. You write a ſhorter Character; this is a long one.

(*Mr.* Bennet *ſworn.*)

Mr. *Ketelbey.* Have you been acquainted with the Hand-writing of Mr. *Layer*?

Bennet. I have been very well acquainted with the Hand-writing of Mr. *Layer*.

Mr. *Ketelbey.* You have ſeen him write?

Bennet. Very often, a thouſand and a thouſand times.

Mr. *Ketelbey.* Look upon that Paper. See if you believe that to be his Hand-writing.

Bennet. No, my Lord, I do not believe that to be his Hand-writing. I never ſaw him write a Hand like it in my Life. I don't think it to be his own Hand-writing at all; I never ſaw him write ſuch a Hand as this.

Mr. *Att. Gen.* Shew him that Paper: [*which was a Paper ſeized among the Priſoner's Papers in the great Bundle.*] Look on that Paper, and give my Lord and the Jury an Account if you know whoſe Hand-writing it is.

Bennet. I believe 'tis my own Hand-writing.

Mr. *Att. Gen.* By whoſe Direction did you write it?

Bennet. By Mr. *Layer*'s Direction.

Mr. *Att. Gen.* For what Purpoſe was it writ?

Bennet. I can't remember.

Mr. *Att. Gen.* Did you write this for Mr. *Layer*?

Bennet. I believe I did; but I can't tell what particular Reaſon I writ it for.

Mr. *Att. Gen.* Now, my Lord, here is one of the Papers that were found in the Bundle, in which the Liſts were found, prov'd to be writ by Mr. *Layer*'s Clerk by his Direction.

Mr. *Serj. Cheſhyre.* He is poſitive as to its not being his Maſter's Hand-writing; yet as to his own, he owns it.

Cl. of the Cr. It is a Liſt of Names.

Mr. *Ketelbey.* Before you read it, what did he ſay?

Mr. *Att. Gen.* My Lord, he ſaid it was his Hand.

Cl. of the Cr. It is part of a Jury between *Layer* and one *Watſon.*

Mr. *Att. Gen.* This was found amongſt his Papers that were ſealed up. It was taken in that Bundle where the Liſts were.

Mr.

Mr. *Ketelbey.* We ſubmit it to your Lordſhip and the Jury. We apprehend we have prov'd this Scheme not to belong to Mr. *Layer:* We have called two Witneſſes that have known him many Years, and have ſeen him write a great many times; and that they verily believe it not to be his Hand-writing. We don't know how it is poſſible to leave it on a better foot. Therefore, my Lord, we ſhall leave it to your Lordſhip's Direction, and the Conſideration of the Jury.

Mr. *Hungerford.* My Lord, all that I would now obſerve is, that this Gentleman is indicted for High-Treaſon. The Main of the Charge againſt him is, that he was concerned in deſigning to raiſe an Inſurrection. How that appears to be prov'd, I have ſpoke to already; but this muſt be allow'd, that whatſoever Deſolation and ill Conſequences might now have enſu'd, there hath been no Blood ſhed, no Armies rais'd, or Invaſions attempted: And I think upon ſuch an Evidence that comes not up to the Charge in the Indictment, the Blood of this Gentleman ought not to be reach'd: at leaſt we humbly hope it ſhall not.

Priſoner. My Lord, as to *Lynch*, it appears our going down into *Eſſex* was merely accidental: when we came to the *Green-Man*, we did not ſtay there three quarters of an Hour; and he ſays he went down twice in the time. All this mighty Buſineſs, this publiſhing a Declaration, talking of an Inſurrection, which is the Treaſon, and laid as an Overt-Act in *Eſſex*; all this was done before Dinner by his own owning. It was not three quarters of an Hour from the time we went in, till the time we came out. We went on to my Lord *North* and *Grey's*; and when he was there, he is ask'd, if there was any Diſcourſe there about any ſuch Deſign. He ſays there was nothing ſaid of it there. Is it poſſible when ſuch a Deſign was on foot, he and I alone ſhould go together to the *Green-Man*, and thorowly recapitulate the Affair; which when we came to my Lord *North* and *Grey's* nothing ſhould be ſaid of it?

When we come to *Plunkett*, he ſaith that he became acquainted with me firſt of all, by reaſon of ſome Goods that were ſeiz'd in a Houſe in *Queen-ſtreet*; that he never ſaw me till five Years after this in *Lincolns-Inn-Fields*. *Plunkett* did not at firſt know me: we looking upon one another, then he renew'd his Acquaintance with me, and told me of the former Service he had done me; and thereupon I gave him half a Crown, which he ſaid was given him by me to liſt Men into the Pretender's Service. He confeſs'd, as I prov'd by Major *Barnewell*, that I gave it him for former Service. As to the thirteen Shillings, he was ask'd whether he did not come to borrow ſuch a Sum of Money of me: he ſaid he did; it was in order to releaſe Major *Barnewell* out of the *Marſhalſea*. Being ask'd whether he was not acquainted with Sir *Daniel Carroll*, and whether there was not ſome Difference about a Horſe in *Spain* between them, he ſaid there was, and that he came to adviſe with me whether he could recover the Money of Sir *Daniel Carroll*. Is it not natural that the Guinea he talks of might be another Man's Money, that was told him by one *Jeffreys* was ſent to him by me: he talks to him as to that Guinea, when he comes to be ask'd whether it was not purely out of Kindneſs and Charity that I did lend him that Guinea, he doth not deny it, and now would inſinuate that it was given him to liſt Men for the Pretender. From the Improbability of the thing, from his own owning, no Perſon could believe him. I believe there are ninety nine out of a hundred that cannot believe one Word that either *Lynch* or *Plunkett* ſwore.

Then the next Matter they talk of, they produce a Scheme: how hard and difficult was it to give any Evidence that ſo it ſhou'd be read; and I humbly apprehend it did not ſtrictly amount to legal Evidence. Mr. *Doyley* he ſaid he knew my Hand fourteen or fifteen Years ago, and that he hath received Letters from me about five Years ago, and hath compared this Scheme with thoſe Letters; and therefore he believes it to be my Hand. When he comes to be ask'd whether he hath thoſe Letters here with which he compared this Scheme; No, I have them not here: yet chiefly his Belief was that it was my Hand-writing, by comparing theſe Letters and this Scheme together. This amounts to nothing more, when it comes ſtrictly to be conſider'd, than only a Similitude of Hands; and ſurely Similitude of Hands, with ſubmiſſion, is not proof in criminal Caſes: and when it amounts to no more, it ought not to be receiv'd.

Here is, ſay they, a Circumſtance that what *Lynch* and *Plunkett* ſwore muſt be true, becauſe here was a Scheme for an Inſurrection. In this very Scheme or Paper, as I took notice of, not one Man is mentioned by Name in it; only Soldiers to be had here, the *Tower* to be ſeiz'd, the *Bank* and the *Exchange* to be ſeiz'd, and the World to be turn'd upſide down; but by whom? there is no Time mentioned, there is no Date to it. This thing if it be ſuch a Scheme, if it had been written by me, which I abſolutely deny that it was writ by me, it doth not appear but that it was written ſeveral Years ago. When they come to ask thoſe Gentlemen, the Under-Secretaries, if this be ſo remarkable that they lay the whole ſtreſs upon this Paper, whether I acknowledg'd it to be mine, they cou'd not ſay I own'd it to be mine. One of the Lords lays his Finger on a Paper, and ſaith, Don't you ſay this about Arms? which I deny to be ſo. How comes it that none of thoſe Lords directly offer'd the Paper to me, and ask me, Is this your Hand-writing? There was my Lord Chancellor, my Lord *Harcourt*, and ſeveral other Lords preſent, that very likely would have ask'd that Queſtion: but either they did not think it material, or they had not the Paper there, or they did not think it of that Conſequence, or they knew I wou'd deny it.

When we come to call Witneſſes to this Woman, this vile, this infamous Woman, I cou'd ſhew you ſhe hath been privy to Forgeries. If it was not to take up your Lordſhips time, I cou'd ſhew that this is a Contrivance between a Gentleman and her; I am very loth to name him, to carry on ſuch a Paper as this to get Money of the Government.

Here have been five or ſix Witneſſes, whoſe Credit ſtands unimpeach'd, who tell you her Word is not to be taken for a Groat. Another ſays, he wou'd not hang a Dog on her Evidence. This Scheme muſt come from her: She ſays, ſhe had two Bundles of Papers that were deliver'd by me to her ſeal'd up; and ſhe ſays this Scheme was amongſt them; and ſhe can the better ſwear it, becauſe ſhe hath ſet her Mark upon it. One of the Meſſengers doth not know whether ſhe was in the Room or no. If this Woman is not to be believed, then all the other Evidence relating to this Paper falls to the Ground. It is a Maxim in Reaſon as well as Law; Take away the Foundation, and the Work muſt fall.

Gentlemen of the Jury, I would have you to take notice of this Evidence, and not go away with a miſtaken Notion, becauſe here is a vaſt deal of Talk about the Pretender, going to *Rome*, liſting of Soldiers for the Pretender's Service, *&c.* Your Lordſhip will tell them all that is nothing, unleſs they believe an Overt-Act to be done in *Eſſex*: That is the true State of the Caſe with humble Submiſſion. Therefore I hope ſuch Evidence as this Evidence of *Lynch* and *Plunkett* (but only to confine it to that of Mr. *Lynch*) hath prov'd nothing at all againſt me; and if what he hath ſworn doth not affect me, then all the other ſtands for nothing; that's the true State of the Caſe. I would not have the Jury think a Man is to be hunted out of his Life by fine Speeches, far-fetch'd Inuendoes, and the like. You will conſider the Character of this Man, that he is not to be believ'd. I'll leave it to you, and I hope God Almighty will direct you: I ask you no more than Juſtice. If a Man's Life is to be taken away by ſuch ſcandalous Evidence as hath appear'd againſt me, there is an end of all your Liberties, your Wives may be taken from you, your Children made Slaves, and all that is valuable to you, your Lives and Eſtates will be but very precarious.

Mr. *Soll. Gen.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, you have heard a very long Evidence, and it is my part, as exactly and faithfully as I can, to ſum up to you the Subſtance of it, and to reply to the Objections which have been made on the behalf of the Priſoner; as well to ſuch Objections as have been made by the Priſoner himſelf, and by his Counſel for him, as to thoſe which ariſe from the Evidence that has come out of the mouths of his Witneſſes: And after I have done this, I doubt not but it will appear to your Satisfaction that the Evidence which has been given for the King ſtands unanſwer'd, and is a ſtrong Proof of High Treaſon againſt the Priſoner at the Bar.

Gentlemen, the Treaſon with which the Priſoner ſtands charged is compaſſing and imagining the Death of the King. This high Crime conſiſts in the Imagination of the Heart; but it muſt be proved and made out againſt the

Offen-

Offender by Acts which he hath done. The Overt-Acts of this Treaſon alledg'd to be done by the Priſoner, are in the firſt place conſulting and conſpiring to levy war againſt his Majeſty: In the next place, publiſhing a treaſonable Declaration, containing Exhortations, Encouragements, and Promiſes of Rewards, to ſtir up the King's Subjects to take Arms, and riſe in Rebellion againſt his Majeſty; conſulting and conſpiring to exalt the Pretender to the Crown of this Realm, and put him in poſſeſſion of the Government by armed Force, and Troops to be levied for that purpoſe; the actual liſting and retaining of Men to ſerve in this Rebellion; and, finally, a Conſpiracy to ſeize and impriſon the ſacred Perſon of the King himſelf.

Gentlemen, the heinous Nature and deſtructive Tendency of theſe Facts were fully explain'd to you in the Opening of the Cauſe. If they had met with Succeſs, the Event could undoubtedly have been no leſs than the entire Subverſion of our preſent happy Eſtabliſhment, and, in conſequence of that, the loſs of every thing that is dear and valuable to us. For this reaſon it was rightly admitted by one of the Counſel for the Priſoner, that the Crime, if prov'd, is incapable of Aggravation; and being ſo, altho it is impoſſible to ſay too much concerning it, yet to ſay a great deal to you muſt be unneceſſary, becauſe it is equally impoſſible for the Hearts of *Engliſhmen*, and Proteſtants to ſuggeſt too little to themſelves on ſo important, ſo moving an Occaſion.

The Evidence which has been given conſiſts of ſeveral parts and different kinds, every one of which conduces to ſupport and corroborate the other, and taken together they make up the fulleſt and moſt convincing Teſtimony that can be expected in any Caſe. In the firſt place, living Witneſſes were produc'd to you who were privy to the treaſonable Acts and Conſultations; in the next place, ſeveral Papers have been read to you, ſome of them written with the Priſoner's own Hand, but all of them belonging to him; and laſt of all, you have the Confeſſion of the Priſoner himſelf prov'd by two Witneſſes.

The firſt Witneſs was Mr. *Stephen Lynch*, who gives you an account in what manner he was firſt introduc'd to the Priſoner at the Bar. He tells you he came into *England* about *April* laſt, and had ſeveral Meetings with one Dr. *Murphey*, who was his old Acquaintance. At theſe Meetings they had a Diſcourſe relating to the Pretender, and an Attempt to be made for a general Riſing in his favour; and Dr. *Murphey* having thus diſclos'd the Secret, told *Lynch* that if he would be of the Party, he would recommend him to a Gentleman who had a conſiderable ſhare in the Management of the Affair. *Lynch* took time to deliberate upon it, and in two or three days after told *Murphey* he was reſolv'd to be of the Party.

Afterwards, in *June* laſt, Dr. *Murphey* carrys *Lynch* to the Priſoner's Houſe, who propos'd to them to go to the Griffin-Tavern in *Holborne*. Thither they went, and the Priſoner ſoon came to 'em; and you have heard in what manner *Murphey* preſented *Lynch* to the Priſoner, as being the Gentleman he had before ſpoke to him of, and what Propoſals were made at that Meeting by the Priſoner to *Lynch*. That there was to be an Inſurrection in the Kingdom in favour of the Pretender, in which they ſhou'd be ſupported by a great many of the Army and the Guards, as well as by ſeveral of the Nobility and Gentry, and that he wanted a fit Perſon to take one of the firſt Steps in it by ſeizing the Perſon of ſome General, or other great Man.

It may be proper here to take notice of an Objection which was made to this, which is the very beginning of our Evidence, That *Lynch* being an abſolute Stranger to the Priſoner, it is very extraordinary that the Priſoner ſhould make a Propoſal of ſo dangerous a nature to him at firſt ſight. But this is plainly accounted for by the Witneſs, who tells you he was intimately acquainted with Dr. *Murphey*, and *Murphey* was very intimate with and introduc'd him to the Priſoner, as a Friend who might be confided in. Agreeably to this you obſerve that the firſt thing the Priſoner accoſted *Lynch* with, was that he had had ſuch ſtrong Recommendations of *Lynch*, that he was fully ſatisfy'd in him.

This Witneſs goes on to give you an account that in a day or two after, in purſuance of the Directions he had receiv'd from the Priſoner, he went to the ſame Tavern, and ſent for the Priſoner. They had ſome further Converſation about a Riſing, and the Inclination which appear'd in the Nation for a Revolution. And now it was that the Priſoner inform'd *Lynch* that there was a great

great Man at the head of this Affair, who neither wanted Wit, Courage, or Reſolution, and would at a proper time give *Lynch* Orders to effect ſomething conſiderable. At this Meeting the Priſoner particularly engaged *Lynch* to ſeize the Earl of *Cadogan*. The Reaſon of this Attempt the Witneſs gives you, that it was in order *to diſcourage the King's Party, and animate the Pretender's*. And, Gentlemen, the meaning of this is plain and obvious; for if an Inſurrection was begun, what could be more likely to create a Confuſion in the Army, and diſpoſe the Soldiers to revolt, which appears to have been a main part of this Deſign, than the ſeizing of their General?

There were ſeveral other Meetings both before and after the Priſoner's going into the Country, where the Witneſs told you he ſtaid ſixteen or ſeventeen Days. At thoſe Meetings they diſcours'd concerning the Conſpiracy; and at one of them it is remarkable the Priſoner told *Lynch*, that if they once made a beginning here, they ſhou'd want no Aſſiſtance from abroad. And at laſt *Lynch* tells you, that he being under Neceſſities, expreſſing great Uneaſineſs at the Delay of the Project, and, as I remember, talking of going beyond Sea, the Priſoner actually advanc'd to him a Sum of Money, no leſs than eight or ten Guineas at different times, in order to engage him to ſtay in *England*, and to aſſiſt in the intended *Deſign of a Revolution*. This is one proof of the Overt-Act laid in the Indictment of liſting Men.

As they had conſider'd how to diſpoſe of the General, ſo it appears they did not neglect the Army; for *Lynch* acquaints you, that upon Diſcourſe about that, he ask'd what Encouragement they had from the Army, upon which the Priſoner anſwer'd, That they had great Encouragement from thence, and ſeveral Serjeants and common Soldiers had given them reaſon to believe they wou'd join them. *Lynch* being ask'd as to the Time when this Deſign was to be put in execution, he told you there was no certain Time fix'd, but the Priſoner inform'd him it was to be at the breaking up of the Camp; and at the ſame time gave a Reaſon for it, which is by no means to be paſs'd over, *That they could not have ſo good Opportunities to talk with the Soldiers* (that is, to ſeduce them from their Duty and Allegiance) *whilſt they were encamped, as in their Quarters*. Purſuant to theſe Conſultations, Mr. *Layer* afterwards told him 'twould be neceſſary to take a proper time to view my Lord *Cadogan*'s Houſe. The Pretence for going thither was that *Layer* had a Particular of an Eſtate which was to be ſold to lay before his Lordſhip. He tells you that in fact they went to the Houſe, ſurvey'd it, talk'd of the Feaſibleneſs of the Attempt, and at that time they alſo diſcours'd of ſeizing the Tower; and the Priſoner told the Witneſs that the Tower would be immediately ſurrender'd to the Party on the Day the Plot ſhould be put in execution; for a certain Officer would take upon him to mount the Guard there that day, who wou'd facilitate the Delivery of it to them. And the People of the Mint were at the ſame time to have Arms put into their hands.

This is a very remarkable Paſſage, and falls in with the Scheme which was afterwards produc'd to you in the Priſoner's Hand-writing.

The next Meeting where any thing paſs'd worth repeating to you, was at the Queen's-Head-Tavern in *Great Queen's-Street*; and when the Witneſs came to the Priſoner there, he found one *Wilſon* in Company with him, and another Man, who ſeem'd by his Clothes to be a Serjeant of the Guards. The Uſe to be made of that Fact, is, that it is a Circumſtance which falls in with the written Scheme; for you obſerv'd that one *George Wilſon* is there mention'd as the Perſon who was to manage the Serjeants, and receive Orders from the principal Officer.

At this Meeting *Lynch* tells you they talk'd over the Buſineſs, and drank good Succeſs to the Enterprize. When they parted, he complain'd to the Priſoner of the long delay. Upon which Mr. *Layer* told him there was a Nobleman at the head of the Deſign, who had full Power and Authority from the Pretender (whom he called King) who would loſe no fit Opportunity to put it in execution. He did not name this Nobleman, but told *Lynch* that he ſhould be preſented to him in due time, and alſo receive Orders from him to ſeize my Lord *Cadogan*.

Gentlemen, it will be very material for you to fix this Circumſtance in your Memories, and to connect it with the Evidence which comes afterwards, and what was done in conſequence of this Meeting.

For

For after *Layer* had thus declared that there was a Nobleman at the head of the Conſpiracy, and *Lynch* ſhould be preſented to him in due Time, then it follows that upon the 24th of *Auguſt*, the Day the Biſhop of *Rocheſter* was committed to the *Tower*, which appears by the Evidence to be the Time of their next Meeting, Mr. *Layer* propoſed to *Lynch* to Ride out to take the Air, which was agreed upon for the next Day.

In that Journey the Priſoner perſuaded *Lynch* to carry Arms, becauſe as he then declared *he had that about him which he would not loſe for all the World.* Upon the Road *Layer* told *Lynch* they were to go to my Lord *North* and *Grey's*, and when they were got pretty near the *Green Man* at *Layton Stone* in *Eſſex*, it was thought to be too late to go on to Dine at Lord *North* and *Grey's*, and therefore the Priſoner propoſed to ſtop at the *Green Man* to take a Dinner.

At this place the Overt-Acts of High Treaſon committed in *Eſſex*, which we were ſo much call'd upon to make out, do ariſe. During their ſtay here the Witneſs gives you an Account that they diſcourſed of the whole Project of the Inſurrection, the means of effecting it, the uneaſineſs that was in the Nation, and in General all the ſeveral matters they had Conſulted of before; and after they had done this he tells you Mr. *Layer* the Priſoner propoſed to him that deteſtable and ſhocking Deſign of ſiezing the Sacred Perſon of the King, which he ſometimes call'd *ſending a ſtrong Guard to take care of*----- at other times *to ſecure*, the King's Perſon.

He tells you farther, that Mr. *Layer* pull'd out of his Pocket a Manuſcript Paper, and deliver'd it to the Witneſs in part folded down, and he read that part of it which was left open. That this Paper contain'd a Declaration, with a Recital, that my Lord *Cadogan* was then actually in their Cuſtody; That there were in it Invitations to the People to Riſe in Arms and repair to their Party; Encouragements to the Soldiers to Revolt, with an offer of *Three Guineas* to every Horſeman and Serjeant, *Two Guineas* to every Corporal, and *One Guinea* to every Common Soldier, to be paid immediately on their joyning the Party; and a promiſe of further Rewards. *Lynch* acquaints you that the Priſoner talk'd of this Declaration being of his own Compoſing, and that from the Diſcourſe which paſs'd between them, and the appearance of the Paper, he apprehended it to be of the Priſoner's Hand-Writing.

My Lord, After this Declaration had been thus produc'd, the Priſoner took it back again, put it into his Pocket, and kept it; and therefore the Paper it ſelf being in his Cuſtody, we were properly admitted to prove the Contents of it by Parol Evidence, and I apprehend if we had no further Proof of theſe Overt-Acts which were done in *Eſſex*, this alone is fully ſufficient to maintain the Indictment to be regularly and properly found in that County.

From the *Green Man* they went on to *Epping*, to my Lord *North* and *Grey's*, with whom it is admitted the Witneſs was not at all acquainted, and conſequently could not of himſelf have any particular Reaſon for going thither, but it appears to have been upon the motion of the Priſoner. When they came to the Lord *North* and *Grey's* Houſe, *Lynch* tells you that the Priſoner introduc'd him to his Lordſhip; and this brings back to one's Memory, and makes it impoſſible not to recollect what the Priſoner had told *Lynch* at their laſt Meeting, in time next preceding this Journey, that there was a great Man at the head of this Deſign, to whom he ſhould be preſented in due time.

Gentlemen, After this *Lynch* went a ſecond time to my Lord *North* and *Grey's* at *Epping*, and there he found the Priſoner at the Bar; indeed he does not own to you that any thing paſs'd between them relating to this Conſpiracy in the preſence of my Lord *North*; but at that place *Lynch*, in Converſation with Mr. *Layer*, expreſs'd an uneaſineſs that the Affair was delay'd, but *Layer* bid him be eaſy, for it might be done ſooner then he expected.

Gentlemen, This is the Subſtance of the Evidence of what paſs'd in *Eſſex*. But the Witneſs tells you he had afterwards ſeveral Converſations with Mr. *Layer*, and when he expreſs'd his Concernment at the delay of putting the Deſign in Execution, *Layer* told him he was ſo bent upon the Succeſs of it, that rather than it ſhould fail, he would be a ſecond *Maſſinello*: This was repreſented as a ridiculous Expreſſion by one of the Council for the Priſoner: But we have all heard what Confuſions were rais'd by that profligate Fellow in the Kingdom of

of *Naples*; and it is plain, that was the Example the Priſoner refer'd to by this Expreſſion.

Mr. *Lynch* was Croſs Examined by the Counſel for the Priſoner, with as much liberty as they thought fit to uſe; but I did not obſerve that his Evidence was at all weakned, I think I may ſay, it was rather confirm'd by it, ſince it was upon their own Queſtions he gave his Reaſons how *Layer* came to deal ſo openly and unguardedly with him at firſt ſight. And thoſe Reaſons were ſtrong, for it is not improbable, if *Murphey* and *Layer* were engag'd in a Treaſonable Deſign, that one of them ſhould have confidence in a third Perſon on ſo ſtrong a Recommendation from the other.

The next Witneſs is *Matthew Plunkett*, and I apprehend, notwithſtanding every thing that hath been ſaid againſt his Teſtimony, that it is rather ſtrengthned, as to the Facts ſworn by him, than weakned by the Evidence for the Priſoner. He tells you, his firſt acquaintance with Mr. *Layer* was about five Years ſince, and had its riſe upon this Occaſion: The Goods in the Houſe where the Priſoner then lodg'd, being taken in Execution, (whether his own Goods or not, is not at all material) one Major *Barnwell*, who has been Examined for the Priſoner, was employ'd to procure Perſons to reſcue thoſe Goods; *Barnwell* applied to this Witneſs, who got two Grenadiers, that were let in at a private Door by Mr. *Layer*'s Clerk. They did their Work, drove out the Officers, and reſcu'd the Goods; and for this Service Mr. *Layer* rewards them with a Crown and ſome Brandy. Since that, it appears he has been employed on other Meſſages between Major *Barnwell* and the Priſoner; and in what manner *Plunkett* is ſupported in theſe Circumſtances, and by Conſequence in the reſt of his Teſtimony, by Major *Barnwell* himſelf, who has been produc'd to diſcredit him, I ſhall obſerve when I come to conſider the Evidence for the Priſoner.

But the Witneſs having given you this Account of the Introduction to the Correſpondence, tells you, that in *July* laſt, *James Plunkett* came to him from the Priſoner, enquir'd privately what acquaintance he had amongſt the Soldiers, and deſir'd him to meet the Priſoner at the *Italian* Coffee-houſe in *Ruſſell-Court*; but he did not meet him there, not having Money nor Inclination to go to a Coffee-houſe. He gives you an Account, that on the *Sunday* following, returning from St. *Andrew*'s Church, as he was going over *Lincolns-Inn* Fields, Mr. *Layer* met him. *Plunkett* had forgotten *Layer*'s Face, but *Layer* remembred him, and ask'd him if he knew him; to which *Plunkett* anſwering that he did not, the Priſoner told him his Name, which made him recollect. *Layer* then enquir'd if *James Plunkett* had not been with the Witneſs, to deſire him to come to the *Italian* Coffee-houſe a few Nights before; and having made himſelf known by theſe Circumſtances, took *Plunkett* into a private Place. There they had a long Converſation, in which *Layer* began with declaring how well aſſur'd he was of *Plunkett*'s good Affections to the *Pretender*, and ſaid, he wanted ſome old Soldiers, ſuch as *Plunkett* was, that would head and diſcipline a Mob, for they had other Men enough. *Plunkett* ſaid he did know ſeveral old Soldiers, but he heſitated a little about the *Pretender*'s being a *Papiſt*. The Priſoner to take off the force of that Scruple, anſwered, *We had as good have a* Papiſt *for our King as a* Lutheran, *I don't know what difference there is between them* (that is) between a *Popiſh* King and a *Proteſtant* one.---- An important Difference! which I wiſh with all my Soul, were not too much forgotten, or perhaps, too little valued, by many amongſt us, who are not ſo frank in declaring it as the Priſoner.

Mr. *Layer* proceeded to excite the Witneſs to join in his Treaſon, by a falſe repreſentation of the State of the Nation, and particularly of the Injuſtice, as he call'd it, which was done to old Soldiers who had ſerved abroad; a Topic moſt likely to captivate an old Serjeant. After this Preface, he inform'd the Witneſs there was to be an Inſurrection, and *Plunkett* asking who was the Promoter of the Deſign, told him it was my Lord *North* and *Grey*, whom he commended as a fine General; and then he went through a ſort of Liſt of ſeveral other Perſons of Conſideration. The Witneſs having declared that he knew ſeveral Soldiers, ſaid, he could procure five and Twenty, whereupon Mr. *Layer* deſired he would make a Liſt of their Names, and the places of their Lodgings,

ings, that they might be in readineſs upon Call; and at parting, gave him half a Crown.

After they had thus talked of the Conſpiracy, there followed a very obſervable Paſſage; for the Priſoner declared that the Deſign had been put in Execution ſome time ago, if ſome Perſon had not diſcovered it to the *French* Ambaſſador, who writ of it to the Regent, and ſo it was notified to the King. However, even this apprehenſion of a Diſcovery did not terrify them, for the Project was to go on. The late Duke of *Ormond* was to come in a ſingle Ship, and General *Dillon* in another, and they were to bring others with them; which you take notice falls in with the Evidence of *Lynch*, that *Layer* declared to him that they ſhould not want Encouragement or Aſſiſtance from abroad, when once they had made a Beginning here.

The next Intercourſe between the Priſoner and *Plunkett* was not perſonal, but by the the means of one *Jeffreys*, a Nonjuring Clergyman.

Gentlemen, You obſerved that the Priſoner told *Plunkett* at parting, that he would ſend a Meſſenger to him with Money; and afterwards, at his own Houſe, on the Morning he went out of Town for *Norfolk*, that he had left a *Guinea* with a Nonjuring Clergyman to give him to do Service with; --- And ſays *Layer*, whil'ſt I am abroad, you may be ſure I ſhall not be Idle. Accordingly Mr. *Jeffreys* came within a few Days after, and appears to be that Clergyman, for he ſaid he came from Mr. *Layer*. He tells you, they diſcourſed on the old Subject, and *Jeffreys* deſired he would get Men in readineſs, and ſaid he had ſeveral other places to go to on the ſame Errand. *Jeffreys* gave the Witneſs no Money at that time, but came a ſecond time, and gave him only half *a Guinea*, which he ſaid *Layer* had ſent him for his encouragement. Beſides this, he tells you *Layer* gave him a *Crown* at the *Caſtle* Tavern in *Drury Lane*, expreſsly to encourage him to liſt Men for the *Pretender*. Upon the Priſoner's return to Town, a Letter was ſent by *Jeffreys* to the Witneſs, to deſire him go to the Priſoner's Houſe; and when he came there, the Priſoner gave him a *Guinea* with his own Hand. There were ſeveral other Converſations, ſeveral things ſaid to keep *Plunkett* firm to the Deſign, and many groundleſs and malicious Slanders caſt by the Priſoner upon his Majeſty's Government; and in all thoſe Converſations *Plunkett* tells you, the Priſoner always ſtil'd the *Pretender* King. 'Twould be tedious particularly to repeat all theſe things to you; but there is one thing I can't help obſerving before I go off from this part of our Evidence, I mean, that *Plunkett* told you more than once, that he was to procure five and Twenty old Soldiers for the Service. Now that happens to be exactly the Number, which is aſſign'd to each of the eight Serjeants in the Priſoner's own Scheme, which was produc'd to you, and is a ſtrong Circumſtance in ſupport of this Witneſs's Teſtimony.

Gentlemen, I have gone through the Evidence of theſe Witneſſes, and I beg leave to ſay they are, within the meaning and intention of the Law, two Witneſſes to prove the High Treaſon charg'd upon the Priſoner; and it happens in this Caſe, that they make out all the particular Overt-Acts alleg'd in the Indictment. Both *Lynch* and *Plunkett* prove repeated Conſultations to levy War, to bring in the *Pretender*, and the actual liſting of Men; and *Lynch* alone proves the publiſhing the Treaſonable Declaration, and that part of the Deſign, which no body can hear without the utmoſt Indignation, the ſiezing his Majeſty's Perſon. From henceforth I apprehend I may take it, that the Charge is proved; tho' in truth we have gone a great deal farther in order to put the Teſtimony of theſe Witneſſes beyond all doubt, to deliver them from all poſſible Objections, and to demonſtrate to you the Nature and Extenſiveneſs of this black Conſpiracy.

The next Head of Evidence, is that of the Papers; and notwithſtanding the *little* Cavils which have been urged againſt them, thoſe Papers are fully proved to be the Priſoner's, and by him deliver'd to Mrs. *Maſon*. It ſtands thus; Mrs. *Maſon* ſwears, That the Priſoner deliver'd theſe Papers to her in two Packets, as Things of great Conſequence, ſeal'd up with his own Seal, which Seal is now remaining, and appears on the Covers. That ſhe lock'd them up ſafe in her Trunk till they were ſeiz'd by the Meſſengers, and out of that Trunk

the

the Meſſengers took them. That ſhe ſet her Mark upon each particular Paper which appears to be the ſame Mark which by way of Experiment they would have her to make in Court; and ſhe ſwears, that theſe are the very ſame Papers which the Priſoner deliver'd to her with his own Hands. The two Meſſengers give you an Account, That they ſeiz'd theſe Papers at Mrs. *Maſon*'s Lodgings, on the 29th Day of *September* laſt; That they took the two Pacquets out of the Trunk, the ſame Seal being then upon the Covers, and that Mrs *Maſon* was by, and mark'd them in their Preſence; That they likewiſe put their Marks upon them, and never deliver'd them out of their Cuſtody till they had ſo done. Indeed, *Turner* ſays he left them in the Hands of his Fellow-Meſſenger, *Spear*, during the little time he went for Mr. *Stanyan*, but *Spear* ſwears they received no manner of Alteration during that Space; and upon the whole, they ſwear them to be the ſame Papers which they took out of the Trunk.

Upon this Evidence, we apprehended we were intitled to have read the Papers, without giving any farther Account of them.

I did mention to your Lordſhip the Caſe of my Lord *Preſton*, which was not ſo ſtrong; for he lying together with *Aſhton* in the Hold of the Ship, upon the Ballaſt, a Bundle of Papers lay between them; *Aſhton* took them up and put them in his Boſom, and there they were ſeiz'd; but being found together with my Lord *Preſton*, thoſe Papers, tho' the very Overt-Acts of the Treaſon laid in the Indictment, were read againſt him upon that Proof only. Indeed, after they had been read, the King's Counſel, in order to give a farther Strength to one or two particular Papers, entered into a Proof of their being my Lord *Preſton*'s own Hand-Writing.

The firſt Paper we call'd for was the Scheme, a regular Plan of this Conſpiracy; and, Gentlemen, in order to prevent any Pretence of Hardſhip, before we read it, we call'd a Witneſs to prove this Scheme to be the Priſoner's Hand-Writing: It was Mr. *Doyley*, who ſwears he verily believes it to be his Hand. He gives you the Reaſons of his Belief: That the Priſoner liv'd with him as a Clerk two or three Years, not whilſt he was a Boy, but after he had ſerv'd ſome Time with another Maſter, had been us'd to Buſineſs, and gain'd a ſettl'd Hand, and during that Time he frequently ſaw him write. To ſupport this farther, he tells you, That he had tranſacted Buſineſs for Mr. *Layer*, as his Agent, until about four or five Years ago, and had received ſeveral Letters from him, which he was ſure were his, becauſe he (Mr. *Doyley*) had done the Buſineſs requir'd to be done by thoſe Letters, and Mr. *Layer* had paid him for it; that he had compar'd his Paper call'd *the Scheme*, with thoſe Letters; that the Character of the Letters agreed with what the Priſoner wrote when he was Clerk to him; and the Character of the Scheme with that of the Letters.

But, Gentlemen, this Scheme is an Evidence ſo conſiderable in it ſelf, and of that general Conſequence to this whole Cauſe, that we went farther yet, and, not out of any Neceſſity, but in order to give you abundant Satisfaction, we proved it to be written by the Priſoner from his own Confeſſion. Mr. *Stanyan* told you, That the Priſoner, upon his Examination before the Lords of the Committee of the Council, where he was preſent, and took Notes, confeſs'd this Scheme to be of his Hand-Writing. The Counſel for the Priſoner objected, This Queſtion was not directly ask'd him (*Is this your Hand?*) and conſequequently he did not ſay, *It is my Hand.* 'Tis true, that does not appear; can there be no other Evidence of a Confeſſion, but ſuch direct Queſtions and Anſwers. Upon the Examination, the Priſoner was ask'd whether he knew of any Arms lodg'd in *Weſtminſter?* He told the Lords he knew of no Arms being lodg'd. Thereupon this Paper was ſhew'd him, and he was ask'd, *How came you to write in this Scheme of your own Hand-Writing, that there were Arms lodg'd?* To this he made anſwer it was a Miſtake, I ſhou'd have writ Arms that ſhould be lodg'd. Can any thing be more plain than this? It was ſo Evident that the Paper was written by him, that it was taken for granted, call'd his Hand-Writing in the very Terms of the Queſtion; probably he had confeſs'd it before the Clerks were call'd in. If it had not been his Hand, would not the natural Anſwer have been, why do you ask me about what is written in that Paper? I know nothing of it, it is not my Hand-Writing; but inſtead of that he

admits

admits it without the leaſt difficulty, and takes upon him to tell the Lords what he intended to have written.

The Gentleman on the other Side, endeavour'd to avoid the force of this Evidence, by this ingenious Turn --- *I ſhou'd have written Arms that ſhould be lodg'd*, (that is) *If I had writ it, I ſhould have written Arms that ſhould be lodged*. But I deſire to be inform'd, if he did not write it, how came he to know any thing about it? How could he take upon him to ſay it was a Miſtake? Whoſe miſtake? He admits it to be his own. So that this Obſervation comes to nothing, and this Scheme after all their Objections, ſtands Confeſs'd, as well as prov'd to be Mr. *Layer*'s Hand-Writing.

Upon the Foundation of all this Proof, which I beg Leave to obſerve does ſupport all the other Papers found in the two Pacquets, the Scheme was read, and when it was read, it required your ſtricteſt Attention; for in that Paper appears a regular Deſign, form'd for the total Deſtruction of this Government, to be executed in the City of *London*, the Capital of the Kingdom. This, if there was no more, ſhews a juſt Foundation for what was lately declared to us in a ſolemn manner, That if this Conſpiracy had not been happily detected, we ſhould before now have ſeen that City involv'd in Blood and Confuſion, ſuch appears to be the plain Intent of it. The moſt profligate of the People were to have Arms put into their Hands, in order to ſubdue and Pillage the better Sort.

In the firſt Place, the *Tower* was to be ſeiz'd, and a certain Officer expected to be upon the Guard that Day, who ſhou'd be their Friend, and let in the Party who were to make themſelves Maſters of that Garriſon. The *Royal-Exchange*, being in the Heart of the City, was to be the Head Quarters of the General; and another Party was to Plunder the *Bank*. So that to give us a Taſte of the Views of theſe Conſpirators, Spoil and Rapine were not, in the Execution of their Deſign, to have been accidental, proceeding from the Fury of Action, the common Excuſe for ſuch Outrages, but a premeditated avowed Part of the Meaſures concerted before-hand.

The Artillery was next to have been ſeiz'd, and a Stratagem is contrived to effect it: And to crown all, his Majeſty himſelf was to be made their Priſoner: Horrid Reſolution! colour'd indeed with the Name of Securing his Royal Perſon from the Inſults of the Mob; but how thin a Pretence this is, I need not ſpend Time to explain to you, ſince the Writer of the Scheme himſelf has called it but a Pretence.

The Scheme goes on, and the Conſpirators being ſenſible how much our future Hopes, as well as our preſent Happineſs, depend on the Proteſtant Succeſſion in his Majeſty's Family, the next Step to be taken, is to get his Royal Highneſs the Prince into their Power --- a Prince at *Richmond*, deſcribed under a Cant Name, but the meaning of it is plain. When all this appears, how can the Counſel for the Priſoner object, that there is not ſufficient Foundation to accuſe their Client directly of compaſſing the Death of the King? Could this have ended in any thing elſe? Or can any one dream, that either of thoſe precious Lives, I have now mentioned, could have been preſerved in the Hands of ſuch Miſcreants?

Gentlemen, having obſerved thus much, in ſhort, upon the Nature of the Scheme, it will be proper to take notice to you, that as this Paper, thus fully proved, is of it ſelf a ſtrong Evidence, ſo it greatly corroborates and ſupports the Teſtimony of the two Witneſſes, as to every one of the Overt-Acts charged in the Indictment, and tallies with it throughout.

This is true, as to the general Deſign, but appears moſt remarkably in ſome of the particular Facts. The Project laid down in the Scheme for ſeizing

the *Tower*, is exactly the ſame with what *Lynch* told you the Priſoner communicated to him whilſt they were viewing my Lord *Cadogan*'s Houſe: *That the Officer who ſhould be upon Duty there that Day might be their Friend, and favour the Deſign.* In like manner, the Circumſtance of eight Serjeants being to have in Readineſs twenty Five Men a-piece, falls in with what *Plunkett* the Serjeant ſwore, That he was to procure that Number of old Soldiers to engage in the Enterprize.

But there is one Obſervation ariſing from a Circumſtance of Time, which is extremely ſtrong, in Confirmation of the Teſtimony of the Witneſſes, and ſhews manifeſtly, that the Account they give, muſt ariſe only from their Knowledge of the Truth of the Fact, and could not poſſibly be fram'd and modell'd to anſwer theſe Papers; it is this, That Mr. *Layer*, who was taken up on the Information of *Lynch* and *Plunkett*, was actually in the Cuſtody of a Meſſenger, and made his Eſcape on the 19th Day of *September* laſt; but theſe Papers, which thus fall in with and ſupport the Facts they ſwear, were not ſeiz'd, as the two Meſſengers acquaint you, till the 29th of that Month; which is near Ten Days after.

Gentlemen, one would have thought there had been no occaſion to go any farther ---

My Lord, I deſire that the Priſoner may not talk to the Jury, whilſt I am obſerving upon the Evidence.

Ld Ch. Juſt. Sir, you muſt not do it.

Priſoner. My Lord, I did not ſpeak to the Jury.

Mr. *Hungerford* offers to ſpeak.

Ld Ch. Juſt. I tell you, Mr. *Hungerford*, it is not right; Mr. *Layer* hath made his Obſervations to the Jury, and made his Nods, and ſometimes I have ſeen his Lips move.

Priſoner. You can't tell what I ſaid.

Mr. *Soll. Gen.* I ſaw you turn about to the Jury, and ſaw your Lips move at the ſame time.

My Lord, I deſire he may ſtand up, and look towards the Court, which is his proper Poſture.

Gentlemen, I was ſaying, that after this Scheme had been produced, one would have thought the King's Counſel might ſafely have reſted it here. Can any Body doubt of this Treaſon, and of the Priſoner's Part in it, when he himſelf hath thought fit to record the Conſpiracy with his own Hand. However, we did not leave it here: But in order to give you entire Satisfaction how deeply this Gentleman was engaged, what a large Share he had taken upon him, and how dangerous and extenſive this Conſpiracy was, we read ſeveral other Papers. They conſiſt of Liſts of the Names of ſeveral Perſons, many of them Officers of the Guards, and of the Army; ſome of them general Liſts, others particular: For what Purpoſe theſe muſt have been made up or procured, by a Perſon engaged in ſuch a Deſign, is extreamly plain.

My Lord, It hath been ſaid with great Juſtice, That this is not to be ſo underſtood, as to bring any Imputation on the Gentlemen named in theſe Liſts. I dare ſay, that by far the greater Number, if not all of them, are Perſons of the utmoſt Fidelity to his Majeſty, and Zeal for his Service. But Men engaged in ſuch Deſigns, who are plotting to overturn a Goverment, muſt weigh and calculate the Strength of that Government, as well as their own.

They

They muſt know who is to be relied upon, on one Side as well as the other; and conſider who are fit to be applied to, and who not; therefore they muſt take an Account of Perſons, concerning whom they have no Hopes, as well as thoſe of whom they have Hopes. Thus it was in my Lord *Preſton*'s Caſe; he had got Liſts of Ships, and of the King's Officers and Troops: The meaning of it was well underſtood upon his Trial; the Court underſtood it, and the Jury underſtood it, that he had procured them, in order to the better Information of himſelf and his Accomplices in the Conduct of that Plot.

Gentlemen, In the next place, ſeveral Letters were read to you, which were alſo found amongſt the Papers depoſited by the Priſoner with Mrs. *Maſon*. You will remember on this Occaſion, what Mrs. *Maſon* ſwore, that the Priſoner hath ſometime gone by the Name of *Fountaine*, and gave directions to her, that if any Letters came directed to Mr. *Fountaine*, ſhe ſhould take them in, and deliver them to him. She tells you, a Letter did come directed to Mr. *Fountaine*; that ſhe delivered it to the Priſoner, who opened it, read it, and kept it as a Letter for him; which was an expreſs owning of that Name, and ſeveral of the Letters now produced are directed by the Name of *Fountaine*.

There was found together with the Letters, a Cypher, that is, a Liſt of feign'd Names for Perſons and Things, which has been in part read; and in this Cypher the Cant Expreſſions made uſe of in the Letters are contained, and the Perſons and Things ſignified by them Decypher'd in plain Words. Sir *William Ellis* (a follower of the *Pretender*, with whom it appears the Priſoner had ſettled a Correſpondence) is there deſcribed by the Name of *Euſtace*, and the firſt Letter that was read, is ſubſcribed with that Name, and directed to *James Fountaine*, Eſq; In that Letter Sir *William Ellis* tells him *he is entirely of his Opinion as to the Method of carrying on the Manufactory, and the procuring of good Workmen is the firſt Step to be made. Manufactory* wanted ſome Explanation, but it is fully cleared up by the Word---*Workmen*, which follows. For look into the Cypher, and *Workmen* ſtands for *Soldiers*; ſo that the *Manufactory* muſt be ſuch as it was fit for *Soldiers* to work in. He goes on and adviſes him particularly *to get ſome of the ableſt of Mrs.* Barbara Smith's. *Barbara* in the Cypher means the *Army*; ſo the Advice amounts to this, That in order to raiſe a Rebellion, he ſhould ſeduce ſome of the ableſt Soldiers of the King's Army. A Counſel, which is now made very plain the Priſoner has endeavour'd punctually to follow. To encourage him in this, he tells him, *that it will be very agreeable to all concerned---particularly to Mr.* Atkins. Now according to the Priſoner's own Explanation in this Cypher, *Atkins* is one of the feigned Names for the *Pretender*.

The next Letter is dated the 11th of *July* laſt, Subſcribed *N. C.* and acknowledges the receipt of a Letter dated the 8th of *May*, with another Letter incloſed, which the Writer ſays *was preſently delivered to Mr.* St. John, *who took it extream kindly*: Look into the Cypher, and it appears, that Mr. *St. John* is one of the fictitious Names for the *Pretender*; ſo that this Letter ſhews, that the Perſon to whom it was written, correſponded immediately with the *Pretender* himſelf. But it ſeems Mr. *St. John did not well underſtand what related to Mr.* Burford, *which* the Letter-writer *hopes may ſoon be cleared by an Anſwer.* What this was which wanted Explanation, is in the Dark; but ſo much we know, that in the Priſoner's Cypher, *Burford* ſtands for the Earl of *Orrery*.

There is another Letter dated the 27th of *May*, in which the Writer tells Mr. *Layer*, that *their Friend had his Letter of the 22d of* March, *and took very kindly the Care he had taken of his little Concerns*. Who is meant by that Friend, whoſe Concerns were the Priſoner's Care, does not certainly appear; but it is very natural to think, it is the ſame Perſon before called *Atkins* and *St. John*. However, it ſeems their Friend was again at a loſs about certain Names---*Burford*, ---*Steel*, ---*Digby*, ---*the little Soldier*, and *Simons*, which were not in his *Rental*.

The

The word *Rental* in Mr. *Layer's* Cypher, is the Cant Term for a *Cypher*; and in that likewiſe are to be found the other Words, which his Friend did not then underſtand; particularly *Simons*, which is put there for the Lord *North* and *Grey*. But if that did not appear by the Cypher, yet the deſcription which follows, would be enough to convince every Man in his private Judgment who was meant by it --- *He is of the North, a Grey haired ancient Man*, Cant Expreſſions plainly, which take in both the Titles of that Noble Lord. The Letter-writer adds, that *their Friend* (the ſame whoſe Concerns were taken care of) *very well remembers this Perſon, and hath a very particular eſteem and value for him, and that he is* (in their Phraſe) *a very good Tenant, and a very honeſt Man.*

Gentlemen, Some other Papers were read to you of a more extraordinary Nature than even theſe Letters; I mean the Notes ſigned *James R.* with the *Pretender's* own Hand. Theſe are not only one Evidence of the Plot, but a part of the means by which it was to be effected; for they appear to be Receipts framed with Blanks, to be filled up with Sums of Money as occaſion offered, with a promiſe of Repayment with Intereſt. Theſe were ſome of the Ways and Means for raiſing Supplies out of the Pockets of ſuch People, as ſhould be found weak and ſilly, as well as wicked enough, to advance Money on ſuch a ſhadow of a Security, for ſo flagitious a Purpoſe. But they ask us who proves the Subſcription to be the Pretender's Hand? I Anſwer, It is certain that is not material; but if it were, we have it ſufficiently from the Priſoner himſelf. The Account he hath thought fit to give of them, you have heard from Mr. *Delafaye*; That he had written to his Correſpondent Sir *William Ellis*, that if Sir *William* could ſend him over ſome Blank Receipts under the King's own Hand, (ſo he called the *Pretender*) he believed they might be made uſe of for the carrying on his Cauſe: That his intention was to have tried his Friends, and to have raiſed Money on theſe Receipts. This ſhews the Priſoner received them as being ſigned with the Pretender's own Hand, and ſhews likewiſe the Uſe intended to be made of them; and it appears he had the Confidence to juſtify himſelf in this Practice, by the like Method having been taken by King *Charles* the Second, juſt before his Reſtoration.

My Lord, This is the Subſtance of our Proof as to the Papers and the Obſervations which have occurred to me upon them; and I will preſume to ſay, with great Submiſſion to your Lordſhip's better Judgment and Obſervation, That upon this Evidence, taken together with the Teſtimony of the two Witneſſes, we might ſafely have truſted our Cauſe to your Lordſhip's Direction, and the Conſciences of the Jury. But we went farther ſtill, not becauſe we wanted it to convict the Priſoner, for we had already done ſufficient for that Purpoſe, but in order to give abundant Satisfaction not only to the Gentlemen of the Jury, but to the whole World, of the Reality of this Conſpiracy in general, as well as of this Man's Part in it; that they may ſee and be convinced of the juſt Grounds there were for this Proſecution, and for the Treatment the Priſoner has met with. For this Reaſon it was, we called Mr. *Stanyan*, and Mr. *Delafaye* to give an Account of his Confeſſion, upon his Examination before the Lords of the Committee of Council; and I apprehend, we were properly and agreeably to the Rules of Law, let into that Evidence. We have had the Judgment of the Court upon that Point, therefore I won't trouble your Lordſhip with any Authorities for it, but rely upon that as the beſt Authority.

Gentlemen, The Relation Mr. *Delayfaye* and Mr. *Stanyan* gave, was, That the Priſoner declared to the Lords of the Council, that he had been at *Rome* in the Year 1721, and ſtay'd there ſome Time, and had ſeveral Conferences with the Pretender in Perſon: That in one of thoſe Conferences, he asked for ſome Token or Credential, in order to give him a Credit with the Party when he returned to *England*; that it was not at firſt granted, but afterwards he put his Requeſt into this Shape, that the Pretender's

Wife (the Queen he called her) would be pleaſed to ſtand Godmother to the Priſoner's Child. Some Time was taken to conſider of this Propoſition, and then Word was brought by Colonel *Hay* to the Priſoner, that ſhe would ſtand Godmother to the Child; and it was agreed, that the late Dutcheſs of *Ormond* ſhould repreſent her. Afterwards the Pretender conſented to be the Godfather, but *Layer* was to procure ſome Perſon to be his Proxy.

What was then agreed upon, was follow'd by the Fact. When the Priſoner return'd home, and the Child was to be Chriſten'd, he applied to my Lord *Orrery* to repreſent the Pretender, and to the late Dutcheſs of *Ormond*, to repreſent the Princeſs *Sobieski*. The latter complied, but my Lord *Orrery* declined the Service; and thereupon the Priſoner made Application to my Lord *North and Grey*, who was pleaſed to accept it. The Child was Chriſten'd at *Chelſea*, and my Lord *North and Grey* ſtood as Proxy for the Pretender, and the late Dutcheſs of *Ormond* for the Princeſs *Sobieski*; and the Priſoner ſaid, they both were privy that they repreſented thoſe Perſons.

The Priſoner's Confeſſion likewiſe verifies every material Circumſtance of *Lynch*'s Evidence, as to what paſs'd in the County of *Eſſex*. That he was at the *Green Man* with one *Lynch*, and there ſhew'd him the Heads of a Declaration which he had drawn: That they went from thence to my Lord *North and Grey*'s, and there the Priſoner preſented the Witneſs to his Lordſhip as a very honeſt Man, and a Perſon fit to be employ'd in ſeizing my Lord *Cadogan*; and afterwards he ſaid, as a Perſon fit to be employ'd in an Inſurrection. That the Priſoner and *Lynch* lay at my Lord's Houſe that Night, dined with him at his own Table the next day; and that the Healths of the Pretender, his Wife, and Child, were drank by them after Dinner; and the ſame Healths were drank, and (if I underſtood it right) begun by that Noble Lord himſelf.

There was a farther Circumſtance ſworn by Mr. *Stanyan*, in which he is confirm'd by Colonel *Huske*, that at the Time Mr. *Layer* was apprehended, a conſiderable Quantity of Arms, and about 50 Cartridges, made up with Ball, and fitted for the Uſe of Soldiers, were found in his Houſe: And the Priſoner being ask'd, upon his Examination, what he did with them? he ſaid, they were for his Uſe, in caſe there ſhould happen any Diſturbance in the Nation.

The Priſoner enter'd into an Examination of the Gunſmith, how he came by theſe Arms; but that is not at all material: In his Houſe they were found, and he has confeſs'd they were intended for his Uſe in caſe of a Diſturbance in the Nation. What Diſturbance was there likely to happen, but from himſelf and his Accomplices?

Gentlemen, The Priſoner's Eſcape out of the Meſſenger's Cuſtody, is another ſtrong Circumſtance. In order to fly from Juſtice, he ventured to get out of a Window two Stories high, and had the Fortune to meet with a Sculler, which carried him croſs the Water into *Southwark*. When the Witneſs firſt endeavour'd to ſtop him, it appears he was in the utmoſt Concern; begg'd of him for God's ſake to let him go, pretending it was an Arreſt; and then he pull'd out of his Pocket a great many Guineas, and bid the Witneſs take what he pleas'd, ſo he would but let him go: But the Meſſenger purſued him pretty cloſe, and he was retaken.

Gentlemen, this is a very material piece of Evidence to ſhew the Guilt of the Priſoner. The Law of *England* ſuppoſeth Guilt from Flight, and tho' it was ſaid, that any Man in Mr. *Layer*'s Condition would have done the ſame thing, if he could; that can be true only in this Senſe, that any Man in his Condition, as to the Conſciouſneſs of his own Guilt, would have done it; but an innocent Perſon would never have brought that Imputation upon himſelf, by endeavouring to eſcape.

This is the Subſtance of the whole Evidence which has been given for the King againſt the Priſoner at the Bar, as well as I can recollect it; and, Gentlemen, I perſuade myſelf, when you have conſider'd it ſeriouſly, you will be ſatisfied that it makes good every Part of the Indictment. But be that never ſo ſtrong, the Priſoner ought to be heard againſt it, and have a full Opportunity of making his Defence: For if he hath a good Defence, either in point

point of Law or Fact, to take off the Force of this Evidence, God forbid that he ſhould ſuffer by it.

The Priſoner enter'd upon his Defence, and his Counſel were pleaſed to ſet out with making ſome Obſervations upon the Caſe, as we had left it.

My Lord, they firſt made an Objection in Point of Law, That the Treaſon, for which the Priſoner is indicted, is Compaſſing the Death of the King, and one of the Overt Acts laid is only a Conſultation to levy War; which they inſiſt is not an Overt Act of that Species of Treaſon, nor indeed any Treaſon at all, becauſe the Words of the Statute, 25 *Edw.* III. import a War actually levy'd; and for the Senſe of thoſe Words, which no body ever doubted of, ſome ancient *French* Writers were quoted.

My Lord, I apprehend this Objection, if it be one, is rather to the Indictment than to the Evidence, of which they know they may properly take Advantage in Arreſt of Judgment. But with great Submiſſion to your Lordſhip, there is no Weight in it either way. One can't help being a little ſurprized to hear it mention'd, after that Point has been eſtabliſh'd by ſo many Reſolutions, which at the ſame time they tell us they are aware of; and in the very laſt Caſe of High Treaſon, which was in this Court, I mean that of *Ker*, *Dorrell*, and *Gordon*, it was ſolemnly determined by the unanimous Opinion of all the Judges, That a Conſultation to levy War, in order to deſtroy or depoſe the King, is an Overt Act of High Treaſon, in Compaſſing his Death. This was the receiv'd Doctrine before the Revolution, and it has been adhered to ever ſince; and tho' the Act of Reverſal of my Lord *Ruſſel*'s Attainder has been mention'd, yet if that were looked into, I dare ſay, no Declaration will be found in it, contrary to this Determination. But they go farther and object, That here is no Overt Act at all proved to be done in the County of *Eſſex*; and if ſo, then whatſoever Proof there may be of Facts done in *Middleſex*, that will go for nothing, and the Priſoner muſt be acquitted upon this Indictment. And, My Lord, ſo far I agree with them, that unleſs we have proved one Overt Act at leaſt to be done in *Eſſex*, we cannot maintain this Indictment.

In Support of this Objection they would have it, that the only Tranſaction in *Eſſex*, is what paſſed at the *Green Man*, and the Whole of that is reduced ſingly to the Publiſhing the Declaration; and that, ſay they, is not legally proved, and if well proved, yet it is no Overt Act of Treaſon. As to the Proof, they object that the Paper itſelf is not produced, and Parole Evidence of the Contents of a Writing is not to be admitted.

But, My Lord, I have given this an Anſwer already, by obſerving that the Priſoner took back the Paper, and kept it; ſo that the Writing itſelf being proved to be in the Cuſtody of the Party, we were entitled within the Ordinary Rule, to give Parole Evidence of the Contents. But, My Lord, this Declaration was a Part of the treaſonable Conſultation then had; and ſure I am, it would be the fineſt Invention to ſecure certain Impunity to Plotters that ever was thought of, if, inſtead of Diſcourſing, the Conſultation ſhall be carry'd on by Papers handed from one to another, and no body can be convicted, becauſe the Paper is not to be found. As to that Part of their Objection, that it is no Overt Act of Treaſon, one of the Gentlemen thought fit to treat it in a ludicrous Manner. 'Twas only *reading a Piece of Paper, ſuppoſe they had ſung a Ballad.* That Gentleman will pardon me, if I ſay, thoſe Expreſſions did not become this Occaſion. An Accuſation of High Treaſon, which highly concerns the King and his Government, is an Affair of a ſerious Nature; and if he does but reflect upon the Contents of that Declaration, which the Witneſs related, he cannot think it a Matter to be ſported with.

Mr. *Ketelbey* was pleaſed to ſay, That this could be no Overt Act of Treaſon, becauſe it was but Publiſhing a Libel. But ſurely, that is very extraordinary. Publiſhing of a Paper may amount to one Crime or another, according to the Subject-Matter of that Paper; and can it be a Queſtion at this Time of Day, whether the Publiſhing a Declaration or a Book containing Arguments, or offering Rewards directly to ſtir up the King's Subjects to riſe in Rebellion againſt him, be High Treaſon? The treaſonable

Intent

Intent in this Caſe cannot be doubted, and 'tis as certain that the Publication is an Act; What is there then wanting to make it Treaſon? But, My Lord, this has alſo been adjudged, and therefore I won't argue it.

My Lord, I have ſaid thus much about the Declaration for the ſake of following the Gentlemen, who are Counſel for the Priſoner, in their Arguments; but after all, their Foundation, which is a Suppoſition that there are no other Overt Acts proved in *Eſſex*, beſides this of the Declaration, entirely fails them; for your Lordſhip will inform the Jury, that *Lynch* depoſed that whilſt they ſtaid at the *Green Man* they did more than *talk a little Politicks*, they conſulted about the Project of an Inſurrection, and the Priſoner there actually propoſed to him (beſides what was contained in the Paper) the Deſign of ſeizing the King's Perſon, which are two other Overt Acts laid in the Indictment.

Upon this, another Objection was raiſed by Mr. *Ketelby*, which, if it holds, will go to the Whole; and that is, that we have but one Witneſs, *Lynch* alone, to the Facts in *Eſſex*; and this Indictment muſt fail, unleſs there are two Witneſſes to ſome or other of the Overt Acts in the County where the Indictment is laid.

But, My Lord, that is not now to be diſputed. The Law is clearly ſettled, that on an Indictment for High Treaſon, in Compaſſing the King's Death, if ſeveral Overt Acts are laid, and ſome of thoſe Overt Acts are proved by one Witneſs to be done in the County where the Party is indicted, and others of them are proved by another Witneſs to have been committed in a different County, that Evidence is ſufficient to maintain the Indictment; they are two Witneſſes of the ſame Species of Treaſon within the Meaning of the Law. So it was expreſly reſolved by all the Judges of the *King's-Bench*, in the Caſe of Sir *Henry Vane*, which is reported in *Kelyng* 15, and that has been ſince followed by a Current of Authorities; the Caſe of the five Jeſuites, the Opinion of the Judges delivered to the Lords, upon the Tryal of my Lord *Stafford*, 32 *Car.* II. and other Caſes.

My Lord, as this is eſtabliſh'd by Authorities, ſo the Reaſon and Neceſſity of the Thing is ſtrong, becauſe otherwiſe treaſonable Conſultations might eaſily be carry'd on in ſuch a manner, that no body could be convicted of them. It would be but to lay the Scene upon the Confines of ſeveral Counties, and take Care not to conſult with any two Perſons in the ſame County; then there could not be two Witneſſes, and all would be ſafe.

I have done with their Objections in Point of Law, and ſhall now endeavour to give ſome Anſwer to their Obſervations upon the Fact. And, Gentlemen, I think the Whole of thoſe Obſervations may be reduced to one Head, which is, That it is highly improbable, that what the Witneſſes have ſworn ſhould be true. But upon that, before I give particular Anſwers to what they have offered, I beg Leave to ſay in general, that tho' in a doubtful Caſe, where there is any Balancing in the Proof, the Improbability of the Thing is a Conſideration of great Weight, yet where there is plain and poſitive Evidence on one ſide, not weaken'd by any Counter-Evidence on the other ſide, the Objection of Improbability can be of little Force.

But to conſider this Improbability. They ſay 'tis very ſtrange, that Mr. *Layer* ſhould be engaged in ſo dangerous an Undertaking, with ſuch Perſons as have ſworn themſelves to be his Accomplices. To this I ſay, 'tis always ſtrange, that Men ſhould venture to truſt one another with ſuch dangerous Secrets; but certain it is, they often do; and as to the Witneſſes in this Caſe, they are proved by the Priſoner's own Evidence, to be Perſons with whom he thought fit to hold a Correſpondence. How this great Confidence was at laſt created between them, has been accounted for by the Witneſſes themſelves, in a very natural and probable Way, of which I have already taken Notice.

Mr. *Ketelby* inſiſted much upon the Improbability of *Plunkett*'s Evidence in thoſe Parts of it which concern *James Plunkett* and *Jeffries* the Non-juring Parſon. That

it

it is not credible, that thoſe two Men, whom *Plunkett* admits to be abſolute Strangers to him, ſhould at firſt Sight open themſelves with ſo great Freedom, to a Fellow of his Degree on a Subject of Treaſon. But that will receive this Anſwer. *James Plunkett* and *Jeffries* were, as appears clearly from the Circumſtances, in the Confidence of *Layer*. *Layer* had a Confidence in *Matthew Plunkett* the Witneſs, on the Recommendation of Major *Barnwell*, and by Means of *Layer*, both *James Plunkett* and *Jeffries* might be induced to truſt him. And thus the Chain of the Correſpondence is made compleat.

Another Objection was made to *Plunkett*, that he had been guilty of a flat Contradiction in his Evidence. That he firſt ſwore, *Jeffries* told him his Name upon his firſt Coming to him, and afterwards that he did not know his Name till he received the Letter from him about the Priſoner's being come to Town. But that Obſervation was grounded upon a Miſtake; for what *Plunkett* ſaid, was, That *Jeffries* did tell him his Surname at firſt, but that he did not know his Chriſtian Name till he receiv'd the Letter, which is very conſiſtent.

But the Counſel for the Priſoner were well aware, that their Obſervations upon the Witneſſes could be of little Effect, if the Paper called the Scheme found Credit; and therefore in the next place they attack'd that as being incredible; they repreſent it as *ridiculous and fooliſh — The Scheme of a Madman, which could never have taken Place.*

Gentlemen, as to this Obſervation, The Scheme is indeed ſuch an one, as I hope in God could never take Place any where, but in the Heads of thoſe that framed it. But with great Submiſſion, that is no Objection to the Credibility of it, provided it be proved. For the Conſideration is not, how it now appears to you or to me, who look upon it in a different Light, and on contrary Principles from theirs; but the proper Conſideration is, what the Conſpirators themſelves, with regard to the Views and Principles they went upon, might think of it. And, Gentlemen, in that Light examine it, go through the ſeveral Articles of it, compare them together, and you will find them conſiſtent and coincident; all the Parts anſwering to one another. Every Quarter of the Town is provided for Diſpoſitions made of certain Numbers of Men, and Care taken to preſerve the Communication between them by Watch-Words agreed upon for that Purpoſe. Theſe Things make it plain, that it was fully conſidered by thoſe who drew it, and framed not at random, but upon Computation of a Force, of which they thought themſelves aſſured. And what, tho' it ſhould be admitted to be extravagant, and not likely to ſucceed? If that ſhould be given way to, as a certain Objection againſt a Plot's finding Credit after it is detected, I am afraid it would be a ſure Method to make ſuch Plots ſucceed, or at leaſt to ſecure the Authors of them from Puniſhment. Do but intermix ſome abſurd extravagant Parts in the Plan of the Conſpiracy, and then according to this Reaſoning it is below Notice, and muſt be ſuffered to go on, or if a Stop be put to its Progreſs, yet it is incredible, and no body muſt be believed to be guilty of it.

But, Gentlemen, whatever Difficulties may be raiſed againſt particular Parts of the written Scheme, yet upon the Grounds and Suppoſitions which the Priſoner and his Accomplices proceeded on, their general Deſign might appear very feaſible to themſelves. For it is plain, they had a Dependance, however ill-founded, upon Diſcontents raiſed in the Minds of the People, and on corrupting great Numbers of the Army, which would have diminiſhed the Strength of the Government, and added to their own; and after they had made a Beginning here, it is proved that they expected Aſſiſtance from Abroad.

The next Thing to be conſidered, is the Teſtimony of the Priſoner's Witneſſes: And, Gentlemen, you obſerve that they have ſcarce called any Witneſs to contradict the Facts contained in our Evidence, for the People of the Houſe at the *Green Man* ſay nothing to the Purpoſe; but all their Evidence is applied to the Character and Credit of the Witneſſes produced for the King.

As to that, I muſt obſerve to you, that it is not to be expected that Conſpiracies and traiterous Machinations of this Kind ſhould be proved by Perſons of the beſt Characters. 'Tis neceſſary from the Nature of the Thing, that they ſhould be proved by thoſe who have been privy to them, and ſuch Perſons cannot poſſibly be of Characters abſolutely unblemiſhed. Therefore,

to

to ſay that ſuch Witneſſes are not to be believed, is in effect to ſay that no Evidence of a Plot is ever to be believed, which ſurely is an Argument that proves too much.

The firſt Witneſs they called on this Head, was my Lord *North and Grey*. I am heartily ſorry to ſee his Lordſhip here in his preſent Condition upon this Occaſion; the rather, becauſe it obliges me to obſerve, that here are Circumſtances proved, which affect him; I will carry it no farther, but ſome Circumſtances are proved in this Cauſe which do affect him. But what is his Evidence? His Lordſhip was called to impeach the Character of *Lynch*; and however he may impeach his Character, I am ſure he ſupports his Credit as to the Facts ſworn by him. The Account his Lordſhip gave, was, that the Priſoner brought *Lynch* to his Houſe at *Epping*, introduced *Lynch* to him, that he was never acquainted with him before; but upon Mr. *Layer*'s Introduction, received him civilly; and that *Lynch* came thither a ſecond Time.

Now, theſe are the very Facts *Lynch* ſwore to, and conſequently ſo far my Lord ſupports him. But then, as to his Character, his Lordſhip is pleaſed to ſay, that the firſt Time *Lynch* was there, he gave him a Hiſtory of his Life; and in that gave ſo vile an Account of himſelf, that when he came a ſecond Time, his Lordſhip would not give him a Lodging in his Houſe. This, I think, was the Whole of my Lord's Teſtimony; and I can't help remarking upon it, that his Lordſhip gives no Account at all of any Buſineſs, which either the Priſoner or *Lynch* had with him, nor of any particular Occaſion upon which the former introduced the latter to him. That was a Matter within his Lordſhip's own Knowledge.

There is another Thing which is a little ſurprizing; and that is, that Mr. *Lynch* being an abſolute Stranger, as is confeſſed, to this Noble Lord, having the Honour to be introduced by a Friend to a Perſon of his great Quality, ſhould have ſo little Regard to his Friend, or to the Opinion that Noble Lord was to conceive of him, as at the firſt Interview to take ſo odd a Way of being recommended, and give a moſt vile, infamous Character of himſelf. This is ſomewhat out of the ordinary Courſe; but you are told, that ſo it was.

As to the other Witneſſes to *Lynch*'s Credit, notwithſtanding their Number, I apprehend their Evidence, when duly conſidered, will have little Weight. They were moſt of them going to enter into particular Facts; but the Court agreeably to the conſtant Courſe of Evidence overruled them in it; and that you, Gentlemen of the Jury, may be ſatisfied no Hardſhip was done by this to the Priſoner, I will mention the Reaſon of it. The Reaſon why particular Facts are not to be given in Evidence to impeach the Character of a Witneſs, is, That if it were permitted, it would be impoſſible for that Witneſs, having no Notice of what will be ſworn againſt him, to come prepared to give an Anſwer to it; and thus the Characters of Witneſſes might be vilified, without having any Opportunity of being vindicated.

As to the Witneſſes themſelves, ſome of them ſay, they know no Ill of *Lynch*; many of them have known him but a little while; ſome of them give an Account of Declarations made ſince this Proſecution began, and how fairly they were drawn from him don't appear; and for ſome others of them, I ſubmit it to the View and Conſideration of the Jury, from their Habit, and the Appearance they made, whether they ought not themſelves to have brought Witneſſes to ſupport their own Credit.

One appears plainly to be miſtaken, and that is, *Darcy*; he was ask'd how long he had known *Lynch*? and, I think, he ſaid he knew him in *London* laſt Winter; now it appears that *Lynch* came into *England* but in *April* laſt.

Gentlemen, in the next place they called Witneſſes to *Plunkett*'s Credit, and there the ſame Thing befell them as in the Caſe of *Lynch*; for Major *Barnwell* their firſt Witneſs on that Head, tho' he is willing enough to

give him an ill Character, yet he confirms ſeveral of the Facts which the other ſwore, and gives exactly the ſame Account of the Reſcuing the Goods, and the Circumſtances of *Plunkett*'s becoming acquainted with *Layer*, which he gave.

Mrs. *Child* likewiſe ſupports *Plunkett* as to the Circumſtance of his carrying her Husband to the Priſoner's Houſe, and the Priſoner's refuſing to ſee him.

As to Mrs. *Maſon*, they have taken a great deal of Pains to prove her a very ill Woman. What ſhe is, or what thoſe Perſons are, whom they have called to her Credit, we can't tell; but ſo much appears even from their own Witneſſes, that ſhe is one with whom Mr. *Layer* thought fit to converſe, and therefore 'tis not improbable that ſhe might be intruſted by him; and it is from ſuch only as he thought fit to converſe with and intruſt, that we can have any Diſcovery. The Priſoner has, indeed, brought two or three Women, who talk very faſt, and ſeem very angry with her; and one of them tells the Jury in a Scolding Way, that *ſhe don't care what ſhe ſays or does*; another, that *ſhe would take away any Man's Life for the Value of a Farthing*; and ſuch kind of vehement Expreſſions. It is ſufficient to ſay to this, that People who talk thus looſely and paſſionately upon their Oaths, rather bring a Suſpicion upon their own Credit, than upon the Credit of thoſe againſt whom they ſwear.

But, Gentlemen, if they had brought a much ſtronger Evidence againſt the Characters of the King's Witneſſes than they have done, what would it have availed them? Does this Caſe depend upon the Characters of theſe three Witneſſes? It cannot be pretended that it does. Let their Characters be what they will, their Credit in this Cauſe is undeniably ſupported; ſupported as to ſeveral material Facts, by the Evidence for the Priſoner, but moſt ſtrongly by the Papers; againſt which, I apprehend nothing has been ſaid to take off their Force. If thoſe Papers are not genuine, how ſhould the Notes ſign'd with the Pretender's Hand, which the Priſoner received from Sir *William Ellis*, come to be amongſt them? How ſhould this Scheme, proved to be of Mr. *Layer*'s Own Hand-Writing, have been there? The Priſoner, I muſt own, did call one Witneſs, *Bennett*, who was his Clerk, and is now his Solicitor, to ſwear he believed the Scheme not to be the Priſoner's Hand. But it happen'd with *Bennett*, as it did with ſeveral others of their Witneſſes, that tho' he is willing to carry his Belief as far as he can, that this is not his Maſter's Hand; yet he is forced to acknowledge another Matter, which ſtill verifies the Papers contain'd in theſe Pacquets, to be his Maſter's Papers: For being ask'd of whoſe Hand-Writing one of them was, he ſwears it was written by himſelf for the Priſoner, and by his Direction. This comes out of the Mouth of his own Witneſs, and confirms Mrs. *Maſon*'s Teſtimony, that theſe Papers came from Mr. *Layer*.

But over and above all this, you have the Priſoner's own Confeſſion, proved by two Gentlemen whoſe Credit is beyond all Diſpute; and certainly the Priſoner muſt be allow'd to be a good Witneſs againſt himſelf.

However, we ſhall not leave the Credit of our Witneſſes ſingly upon theſe Obſervations, tho' I think we might ſafely do it; but ſhall endeavour to take off any ill Impreſſions their Evidence may have left upon you, and vindicate their Characters; and that, not by ſuch Witneſſes as ſome of thoſe produced for the Priſoner were, who, I obſerv'd before, might ſtand in need of Witneſſes to ſupport their own Credit, but by Perſons of undoubted Reputation, who will ſatisfy you that their General Character is ſuch, that they very well deſerve to be believed by you.

I have now done with repeating and obſerving upon the Evidence on both ſides; and I beg leave to inſiſt upon it, that we have fully made good what was open'd to you in the Beginning of this Cauſe, that in general there has been a horrid Conſpiracy carried on, in order to overthrow our happy Conſtitution, and to deprive us of all the Bleſſings we

enjoy

enjoy and promiſe ourſelves, under this Eſtabliſhment, in his Majeſty and his Proteſtant Royal Family. The Part the Priſoner hath acted in this, fully appears to you, and it appears to be a very conſiderable one.

It has been ſaid, indeed, that he is but an inconſiderable Man, of no Rank or Fortune fit to ſuſtain ſuch an Undertaking. That Obſervation may be true; but ſince it's plain he did undertake it, that, join'd with the other Circumſtances proved in this Cauſe, ſerves only to demonſtrate, that he was ſet on work, and ſupported, by Perſons of greater Abilities for ſuch an Enterprize. And, Gentlemen, this is the moſt affecting Conſideration of all.——But I would not, even in this Cauſe of your King and of your Country, ſay any thing to excite your Paſſions; I chooſe rather to appeal to your Judgments; and to thoſe I ſubmit the Strength and Conſequence of the Evidence you have heard.

My Lord, I beg Pardon for having taken up ſo much of your Time; I have but one Thing to add, and that is, humbly to beg of your Lordſhip, for the Sake of the King, for the Sake of Myſelf, and for the Sake of the Priſoner at the Bar, That if I, through Miſtake or Inadvertency, have omitted or miſrepeated any thing, or laid a greater Weight upon any Part of the Evidence, than it will properly bear, your Lordſhip will be pleaſed to take Notice of it, and ſet it right, that this whole Caſe may come before the Jury in its true and juſt Light.

Mr. *Serj. Cheſhyre.* It is ſo late, that it will be inexcuſable in me to trouble your Lordſhip with any thing by way of Reply, eſpecially ſince Mr. *Soll. Gen.* hath done it ſo fully. We ſhall only beg leave to call a few Witneſſes to the Credit of the King's Witneſſes.

Mr. *Ketelbey.* I ſhall not take up much of your Lordſhip's Time, eſpecially ſince your Lordſhip and the Court have been entertain'd ſo well and ſo long by Mr. *Soll. Gen.* at leaſt two Hours, as I have obſerv'd by my Watch; but 'twas impoſſible for me to think him tedious, tho' ſo late at Night, and eſpecially ſince his Concluſion is exactly agreeable to the Concluſion of a late celebrated Solicitor General on a like Occaſion.

Mr. *Att. Gen.* We muſt beg leave to call ſome Witneſſes we have, who will ſupport the Credit of Mr. *Lynch* and *Matthew Plunkett.*

Mr. *Vernon* ſworn.

Mr. *Serj. Cheſhyre.* Do you know Mr. *Lynch?*

Vernon. Yes.

Mr. *Serj. Cheſhyre.* What Account do you give of him?

Vernon. I keep a Tavern at the *Swan* and *Rummer* in *Finch-Lane*; this Gentleman hath frequented my Houſe theſe four Months every day, till he was in Cuſtody; he hath been a very good Cuſtomer, and paid me honeſtly.

Mr. *Serj. Cheſhyre.* Do you know the Priſoner at the Bar? Have you ſeen Mr. *Lynch* and him in Company together at your Houſe?

Vernon. Yes; I have ſeen them twice in Company together at my Houſe.

Mr. *Ketelbey.* How long hath he been your Cuſtomer?

Vernon. From the Beginning, about four Months.

Mr. *Ketelbey.* About four Months? Did he ſpend his Money plentifully and freely?

Vernon. Yes; ſome Part of it I have had ſince he hath been in Cuſtody.

Mr. *Ketelbey.* How much was he in your Debt before he was in Cuſtody?

Vernon. Ten or Eleven Shillings.

Mr. *Ketelbey.* How long had he been in Cuſtody before he paid you?

Vernon. Not long.

Mr. *Hungerford.* He had the Firſt-Fruits of his being in Cuſtody; he had ſome Money, and ſo he paid you your Reckoning.

Mr.

Mr. *Serj. Pengelly.* We take it, that Mr. *Vernon* proves, that *Layer* and *Lynch* were converſant together.

Capt. *Malthus* ſworn.

Mr. *Serj. Cheſhyre.* Do you know *Stephen Lynch?*

Malthus. Yes.

Mr. *Serj. Cheſhyre.* How long have you known him?

Malthus. About nine Years. I knew him firſt, when he was a Merchant at the *Canaries.* I traded with him ſeveral times, ſeveral times I was conſign'd to him, and I have ſeen him at home.

Mr. *Serj. Cheſhyre.* What Account can you give of his Behaviour?

Malthus. He always behav'd himſelf very well, I think.

Mr. *Att. Gen.* Do you think he would ſwear falſly to take away a Man's Life?

Malthus. No, I don't think he would.

Mr. *Ketelbey.* How long is it ſince you have been acquainted with him?

Malthus. Nine or Ten Years.

Mr. *Ketelbey.* How long is it ſince your laſt Acquaintance?

Malthus. About four Months.

Mr. *Ketelbey.* What Diſtance of Time did there uſe to be between your ſeeing of him?

Malthus. Two or three Years, every time I came home.

Mr. *Ketelbey.* Doth he owe you any Money?

Malthus. No.

Mr. *Ketelbey.* Would you truſt him with Money?

Malthus. He never askt me.

Mr. *Ketelbey.* Your Witneſs we may ask as to Particulars, Did you know his Aunt there, at that time?

Malthus. No.

Mr. *Ketelbey.* Did you know any thing of his Behaviour?

Malthus. I never knew an ill Character of him in my Life.

Capt. *Arnold* ſworn.

Mr. *Serj. Cheſhyre.* Do you know *Stephen Lynch?*

Arnold. Yes.

Mr. *Serj. Cheſhyre.* How long have you known him?

Arnold. 'Tis fourteen Years ago.

Mr. *Serj. Cheſhyre.* You have been acquainted with him ſince. What Account do you give of his Character? Do you think he would forſwear himſelf?

Arnold. No.

Mr. *Serj. Cheſhyre.* Do you take him to be a Man of Credit?

Arnold. I never had any Dealings with him.

Mr. *Serj. Cheſhyre.* Would you have truſted him with Five Hundred Pounds?

Mr. *Ketelbey.* Would you truſt him with Five Shillings?

Arnold. Five Shillings is a ſmall Sum.

Col. *Manning* ſworn.

Mr. *Serj. Cheſhyre.* Do you know *Matthew Plunkett?*

Col. *Manning.* Yes.

Mr. *Serj. Cheſhyre.* How long have you known him?

Col. *Manning.* Upwards of ten Years.

Mr. *Serj. Cheſhyre.* What Credit hath he? Do you take him to be an honeſt Man?

Col. *Manning.* He behav'd himſelf well, and like an honeſt Man.

Mr. *Serj. Cheſhyre.* Do you think he would forſwear himſelf?

Col. *Manning.* No, I believe not.

Priſoner. Have you and I had any Diſcourſe about this very *Plunkett?* And did not you tell me he was a Scoundrel?

Col. *Manning.* No, I did not.

Mr.

Mr. *Hungerford.* Did not you give him a bad Character to Mr. *Layer*?

Col. *Manning.* No, I did not.

Priſ. Do you mean thus, that he behaved himſelf very well, as a Soldier? What is that as to his Character in general?

Col. *Manning.* I know no ill Character of him while he was with me

Mr. *Ketelbey.* Did you never hear any Thing in relation to Sir *Daniel Carroll*, that he made a wrong Demand upon him?

Ld. Ch. Juſt. If he made an unjuſt Demand, will he therefore be perjur'd?

Mr. *Ketelbey.* What have you heard about that Affair between Mr. *Plunkett* and Sir *Daniel Carroll*?

Col. *Manning.* I have heard Mr. *Layer* ſay——

Mr. *Ketelbey.* Did you never hear any Body elſe ſpeak of him? I ask you about making this Demand upon Sir *Daniel Carroll*, what you know of it?

Ld. Ch. Juſt. I never heard any Thing like it.

Mr. *Ketelbey.* My Lord, We apprehend we may croſs examine, as to Particulars, a Perſon whom the other Side produces as a Witneſs to Character.

Priſ. Did not you afterwards, in Diſcourſe with Mr. *White*, mention it again with relation to this Affair of Sir *Daniel Carroll*?

Col. *Manning.* I deny it.

Priſ. Did you deſire me not to examine you?

Col. *Manning.* No, I told you I had nothing to ſay in relation to *Plunkett*'s Character.

Mr. *Hungerford.* Let him alone, I would not ask him any more Queſtions.

Col. *Manning.* Why, Let him alone?

Mr. *Hungerford.* I would not have him examine you any further.

Col. *Manning.* You are very civil.

Mr. *Hungerford.* So I am, to give you no further Trouble.

Major *Hamel* ſworn.

Mr. *Serj. Cheſhyre.* Do you know *Matthew Plunkett*?

Maj. *Hamel.* I have known him theſe Seventeen Years.

Mr. *Serj. Cheſhyre.* What Character hath he?

Maj. *Hamel.* He was then a Drummer in the Regiment, and always did his Duty well; I never heard him complained of; he always had a good Character; he went from *Ireland* to *Spain.*

Mr. *Hungerford.* You ſpeak to his Military Conduct.

Maj. *Hamel.* I know of no other.

Mr. *Serj. Cheſhyre.* You ſay he always had a good Character.

Maj. *Hamel.* Yes, he always had.

Captain *Crosby* Sworn.

Mr. *Serj. Cheſhyre.* Do you know Serjeant *Plunkett*?

Cap. *Crosby.* Yes.

Mr. *Serj Cheſhyre.* How long have you known him?

Cap. *Crosby.* Three Years.

Mr. *Serj. Cheſhyre.* What Character had he for that Time?

Cap. *Crosby.* Whilſt I knew him, he bore a good Character.

Mr. *Serj. Cheſhyre.* Did you hear any Ill of him?

Cap. *Crosby.* Not during the Time that I knew him.

Mr. *Ketelbey.* Where was the Regiment at that Time?

Cap. *Crosby.* It was in Town, about half a Year ago.

Mr. *Ketelbey.* Were you not of the ſame Regiment?

Cap. *Crosby.* We were.

Mr. *Serj. Cheſhyre.* We won't give your Lordſhip any further Trouble.

Mr. *Ketelbey.* And we apprehend we have no occaſion to give your Lordſhip any further Trouble, by way of Reply.

Mr. *Att. Gen.* My Lord, as to my Lord *North* and *Grey*, we can prove he attempted to get away, and was endeavouring to go to *France*, and was taken in the *Iſle of Wight*; and that when the Priſoner was ſeized, he ſent a Meſſenger to give my Lord *North* notice of it. This laſt was confeſſed on his Examination, and we can prove it.

Mr. *Ketelbey.* I muſt ſubmit it to your Lordſhip, whether his Examination can be admitted as Teſtimony, ſo as to affect a Third Perſon.

Ld. Ch. Juſt. It is not worth diſputing.

Gentlemen of the Jury, This is an Indictment againſt Mr. *Layer*, the Priſoner at the Bar, for High-Treaſon. The Treaſon with which he ſtands charged, is the Compaſſing and Imagining the Death of the King: The Overt Acts that are laid in this Indictment, as Evidence of this Treaſon, are ſeveral; Firſt of all, that he did meet and conſult, adviſe and agree, to levy War againſt the King; the Second is, That he did publiſh a Seditious and Traiterous Writing, exciting and encouraging the People to an Inſurrection, and offering Rewards for that Purpoſe; the Third is, That he did engage in a Deſign to ſet the Pretender on the Throne; the Fourth, That he lifted Soldiers againſt the King; and the Laſt, That he did conſult and agree, to take, ſeize, and impriſon the King: Theſe are the ſeveral Overt Acts that are laid in the Indictment of the Treaſon, that is, the compaſſing and imagining the Death of the King. Gentlemen, I muſt tell you, before I go on to lay before you, and obſerve on the Evidence, what the Law is; and I muſt tell you, that the Law is undoubtedly ſo, if a Man is charged with Treaſon, in compaſſing and imagining the Death of the King, there muſt be an Overt Act of that Treaſon proved in the County where he is Indicted; and in the next Place, if there be ſuch Overt Act in that County, he may be charged with any Overt Act of the ſame Species of Treaſon in any other County whatſoever. This hath been frequently reſolved and agreed, and was hardly ever made a Queſtion. I obſerved in the Hands of one of the Counſel, and he took notice of it, that he had the Tryal of Sir *William Perkins*; he could not but obſerve there laid down by my Ld. Ch. Juſt. *Holt*, if Evidence be given of Treaſon in one County where the Indictment is laid, he may be charged with any Overt-Acts of the ſame Species of Treaſon in any other County whatſoever. The Law being ſo, I will, in the beſt manner I can, ſet out the Matters that have been given in Evidence, on this long Evidence, in the cleareſt Light that I can ſtate the Examination, the Objections that have been made, and the Obſervations that are proper to be made upon it.

To maintain this Indictment, the King's Counſel have produced ſeveral Witneſſes. The firſt Witneſs is Mr. *Lynch*; the Second Witneſs is Mr. *Plunkett*; all the other Evidence hath been offered to confirm the Evidence given by theſe two Witneſſes. As to Mr. *Lynch*, he tells you how he came to the Acquaintance of Mr. *Layer*; that he was an intimate Acquaintance of Dr. *Murphey*, and Dr. *Murphey* recommended him to Mr. *Layer*; being ſo recommended, he had ſeveral Meetings with Mr. *Layer* in *Middleſex*, at the *Griffin-Tavern*, and in *Holbourn*, at the *Caſtle-Tavern*, and I think, at *Southampton-Buildings*.

He tells you, at theſe ſeveral Meetings it was declared, that there was to be a Riſing, and it was thought neceſſary, to make this Riſing the more effectual, that my Lord *Cadogan*, the Commander in Chief of the King's Forces ſhould be ſeiz'd.

Mr. *Layer* ſaid to Mr. *Lynch*, he was looked upon as a Perſon proper for the Undertaking, and he declared that he was willing, and ſaid, if that was the Opinion of thoſe concerned in the Affair, he would undertake to do it: After this, they went to my Lord *Cadogan*'s Houſe, to view the Houſe, and the ſeveral Avenues about the Houſe; and after they had taken this View, *Lynch* declares his Opinion, that it was feaſible, and he would undertake to do it.

After he had given you an Account of what happened at the ſeveral Meetings in *Middleſex*, then he comes to what was done in the County of *Eſſex*: He tells you Mr. *Layer* came to him, and asked him, whether he would ride out with him to take the Air; he agreed to it; they both went out of Town together; he ſaid, that as they were going along, Mr. *Layer* told him his Intention was to go to my Lord *North* and *Grey*'s; he ſays, they went forward with that Intention, but before they came to the *Green-Man* at *Layton-ſtone*, they thought it would be too late before they got to my Lord *North* and *Grey*'s for Dinner, therefore they thought proper to halt at the *Green-Man* and take a Refreſhment there. He tells you, they did ſtop there at the *Green-Man*, and at that Time Mr. *Layer* did repeat the Diſcourſe of the Riſing that was intended to be; he ſaid, my Lord *Townſhend*, and my Lord *Carteret*, and Mr. *Walpole* were to be ſeiz'd, and a Party were to be ſent to ſeize the King; and that a Scheme was laid for ſeizing my Lord *Cadogan*, and that it was propoſed as a proper Time to put this in execution at the breaking up of the Camp. He ſaid, when that was mentioned, at firſt he made ſome little doubt, whether that was a proper Opportunity; with that Mr. *Layer* told him, pray conſider with your ſelf, if you do not think this practicable, will you propoſe ſomething elſe, and we will alter our Scheme? He

He ſaith, at this ſame Time Mr. *Layer* pulled out of his Pocket a Declaration, purporting an Exhortation and Excitation for People to riſe, and take up Arms againſt the King, and Rewards offered for that Purpoſe.

Afterwards they went to my Lord *North* and *Grey*'s, and that Mr. *Layer* introduced him to his Lordſhip, as his Friend; that they were civilly and kindly receiv'd, ſupped there, lay there that Night, and dined there the Day after. This is the Evidence given with Relation to what was done in the County of *Eſſex*; and if this Relation be true, no doubt there is a good Overt Act proved upon him in the County of *Eſſex*, and conſequently the Indictment is well laid in *Eſſex*, and then the Evidence in the County of *Middleſex* will be a proper Evidence againſt the Priſoner. But as to this Evidence of Mr. *Lynch*, they ſay for the Priſoner, Mr. *Lynch* is not to be believed, that he is a vile profligate Wretch, and no Credit is to be given to him, though upon his Oath; and it muſt be admitted the Evidence that hath been given for that purpoſe, by a great Number of Witneſſes, will be proper for your Conſideration: But you will conſider, in a Caſe of this Nature, if you are to expect Witneſſes without Exception, it is impoſſible to have any Evidence to convict a Man of High Treaſon; no body will engage in ſuch an Affair, that is of a nice Credit and Reputation, and therefore it is not to be expected; for if it be, it is and will be impoſſible to convict any Perſon of Treaſon.

But then you will conſider, although Credit is not entirely to be given to a Man of ill Repute, yet if he is ſupported in his Evidence that he gives, by other Evidences, you will conſider whether that will not remove all ſort of Objections as to his Character.

As to the Overt Act of Publiſhing the Declaration, that is ſupported beyond Contradiction; for it appears in his Examination before the Lords of the Council, when he is asked, Whether he ever ſaw the Declaration? He ſays, He never ſaw any but one, and that was drawn by himſelf.

Priſoner. My Lord, What Mr. *Stanyan* ſays, I believe, he did not ſay that I confeſs'd that it was drawn by me.

Ld. Ch. Juſt. You muſt not interrupt me while I am directing the Jury. You have behaved your ſelf intemperately hitherto, but you muſt not interrupt me, I can't bear it. The Subſtance of what Mr. *Stanyan* ſaid is, That when it was demanded of you, whether you had ſeen the Declaration, you ſaid, You had ſeen none but a rough Draught that was drawn by your ſelf.

Priſoner. I beg your Lordſhip's Pardon, Mr. *Stanyan* is here in Court.

Ld. Ch. Juſt. Is he in Court? Let him be asked the Queſtion again.

Mr. *Stanyan.* My Lord, I believe I did ſay, that Mr. *Layer* did confeſs, that it was the Heads of a Declaration which he had drawn himſelf.

Ld. Ch. Juſt. Now, Sir, after this, I expect not to be interrupted by you any more.

This being the Matter, he doth at the ſame time confeſs, that That was the Declaration which he had ſhewn to Mr. *Lynch* at the *Green Man*, on the Way as they were going to my Lord *North* and *Grey*'s. So that part of this Evidence is ſupported by Mr. *Layer*'s own Confeſſion. As to the other part, that he did Conſult and Agree to levy War, conſider, that he confeſſed before the Council, That he did go to the *Green Man*, and there ſhewed the Declaration to Mr. *Lynch*; whether that doth not give Credit to what the other ſaith, That he went to the *Green Man*, and that there they talked of the Inſurrection, and the levying of War; and then went to my Lord *North* and *Grey*'s, with this, that he recommended Mr. *Lynch* to my Lord *North* and *Grey*, as a fit Perſon to ſeize my Lord *Cadogan*, and to be concerned in the Inſurrection.

Gentlemen, This is not the only Matter by which he is ſupported in this Evidence, That the Priſoner deſigned an Inſurrection, and to levy War againſt the King; but he confeſſed before the Council, That he went to *Rome*, had two ſeveral Conferences with the *Pretender*, and was very kindly received by him: He ſaid he ask'd the *Pretender*, if he would give him any Credentials that might recommend him to his Friends in *England*; that was objected to, and not complied with; but then he asked a particular Favour, that the *Pretender*'s Spouſe would ſtand Godmother to his Child; that is granted; and the *Pretender* himſelf is willing to ſtand Godfather.

Afterwards, when he returns into *England*, he conſidered of proper Proxies to repreſent the *Pretender* and his Spouſe; and asking my Lord *Orrery*, he refuſed him;

him; then he asked my Lord *North* and *Grey*, who conſented: My Lord *North* and *Grey* ſtood as Proxy for the *Pretender*, and the Dutcheſs of *Ormond* as Proxy for the *Pretender*'s Wife.

He tells you, at this Time when he was at *Rome*, he had told Sir *William Ellis*, it would be of great Service if he could have a Fund of Credit to raiſe Money with. How muſt that be? Why, ſaith he, let me have Blank Receipts ſigned by the *Pretender* himſelf; and accordingly he had.

This, he tells you, is what happened at that time. Now the Evidence given by Mr. *Lynch*, being of an Inſurrection in Favour and for the Service of the *Pretender*, when Mr. *Layer* owns he had two Conferences with the *Pretender*, and was received ſo kindly by him, and had ſuch particular Marks of his Favour, conſider whether this doth not ſupport the Evidence which is given by Mr. *Lynch*.

The next Evidence is Mr. *Plunkett*; He tells you how he came recommended to Mr. *Layer* by one Major *Barnwell*, on this Occaſion. He tells you, Mr. *Layer*'s Goods were in Execution, and he was employed by Major *Barnwell* to reſcue them; accordingly he went and fetched a couple of Soldiers, got into the Houſe, drove out the Officers, and reſcued the Goods. By this it appears, that Mr. *Plunkett* was a bold daring Man, fit to be employed on ſuch an Occaſion; and they aſſign that as a Reaſon, which anſwers the Objection made. Saith Mr. *Layer*, How came it to paſs, that when I had never ſeen this Man, that I of a ſudden ſhould have ſuch a Confidence as to truſt him in an Affair of this Nature? In Anſwer to that, it is ſaid, He had done him a ſingular Service before, he had done a bold Act, he had got ſome Grenadiers and reſcued his Goods when they were taken in Execution; and likewiſe *James Plunkett* had given a Character of him, that he look'd upon him as an honeſt Man, and therefore recommended him to Mr. *Layer*.

Then he tells you, That Mr. *Layer* ſaid they wanted a Man to ſerve on this Occaſion; that *James Plunkett* talked of Officers, but we don't want Officers ſo much as we do brave Serjeants, old Soldiers, ſuch as will be ready and qualified to ſupport the Mob, and to Diſcipline and Head them; theſe are the Men we want, can you get ſuch as theſe? Such as you are, that will be able to Diſcipline the Mob and put them in Order. I told, him (ſays the Witneſs *Plunkett*) I would do my Endeavours and accordingly I adviſed him; that I had procured twenty five ready for the Service; he deſired to have Liſts of their Names, and the Places of their Abode, that ſo he might know where to ſend to them upon Occaſion.

Now the Objection to this Evidence being only, How comes it to paſs that a Man ſhould be truſted with ſuch a Secret, and this on the firſt Sight or Acquaintance? Why, ſaith he, I had been employed before, and had ſhewn my ſelf faithful on another Occaſion, and did ſerve him in reſcuing his Goods, when they were ſeized upon in Execution, and *James Plunkett* recommended me. This is the Evidence of *Matthew Plunkett*, and if *Plunkett* ſwears true, if he was deſired by Mr. *Layer* to procure and liſt Men for the Service of the *Pretender*, and he ſays and declares he did do it, then, if this Evidence is to be credited, the Priſoner at the Bar is Guilty of the Treaſon wherewith he ſtands charged: But ſtill they rely upon it, and hope you will not give Credit to the Witneſſes. You hear what hath been anſwered by the Counſel for the King, and I obſerve to you now, that tho' here was ſuch a Charge againſt the Witneſſes, the King's Counſel have produced ſeveral Perſons that had good Aſpects, and ſeemed to be Men of Reputation, who ſay, they know them, and believe them to be Men of Reputation.

Then, Gentlemen, the next thing inſiſted on is, that the Evidence given by *Lynch* and *Plunkett* is ſupported by the Papers that were ſeized in Mrs. *Maſon*'s Cuſtody. Conſider how that Matter ſtands; Mrs. *Maſon* tells you, that Mr. *Layer* brought two Pacquets of Papers ſealed up to her, and told her, they were Love-Letters; ſhe ſays, ſhe was deſired to keep them by the Priſoner; and accordingly ſhe did keep them for him; and you have it afterwards from the Witneſſes, who have been produced, and againſt whoſe Credit there is no Exception, that having a Warrant againſt Mrs *Cook* and Mrs. *Maſon*, they came to Mrs. *Cook*'s Houſe to ſearch for Papers, and in Mrs. *Maſon*'s Room there was a Trunk which was locked; they ordered it to be opened, which Mrs. *Maſon* did, and they took out of the Trunk two Bundles of Papers ſealed up as you have heard; they tell you the Bundles of Papers were opened, that they ſet their Marks upon each Paper; one of them did not immediately ſet his Mark, but afterwards tis proved that he kept them from the Time they were delivered to him till the other came back again, and then upon his Return he delivered them back again to him;

then

then he ſet his Mark upon them, both ſet their Marks upon them, and therefore they can ſwear that they are the ſame Papers that were taken out of Mrs. *Maſon*'s Trunk: Then, if Mrs. *Maſon* ſwears true, they are the Papers of Mr. *Layer*, which were delivered to her by him; and ſo tracing it from Hand to Hand, theſe are the ſame Papers that were found in Mrs. *Maſon*'s Cuſtody. Mrs. *Maſon* ſwears the ſame, and ſhe alſo ſet her Mark upon them.

But, ſaith Mr. *Layer*, there is no Credit to be given to Mrs. *Maſon*, ſhe is an ill Woman, an infamous Woman, therefore her Evidence is not to be regarded.

Gentlemen, conſider how this Matter ſtands; in one of theſe Pacquets of Papers were found the *Pretender*'s Receipts, which Mr. *Layer* before the Council ſaid, he had deſired Sir *William Ellis* to procure for him from the *Pretender*, and which he had accordingly procured, and that he had received them; and theſe Receipts being in the Pacquet found upon Mrs. *Maſon*, how came they there, if they had not been delivered to her by Mr. *Layer*? Therefore theſe Receipts being in this Pacquet, plainly demonſtrate that theſe Papers are the Papers of Mr. *Layer*, and were by him delivered to Mrs. *Maſon*: And if they were his Papers, theſe Papers, and what is contained in them, will be a ſtrong Evidence againſt Mr. *Layer*. Notwithſtanding all this, ſays Mr. *Layer*, theſe were never my Papers; it is Forgery or Perjury. Whether or no you will believe theſe Papers to be Mr. *Layer*'s, when it appears thoſe Receipts were found amongſt them; beſides that, here is a Paper amongſt them, that the Witneſs that is produced by Mr. *Layer*, one that was his Clerk, ſwears that it is his own Hand-Writing, how came that there, if this be not the Bundle and Pacquet of Mr. *Layer*? And on this they turn the Strength of their Caſe.

If this be ſo, conſider, firſt here is a Scheme; whoſe Hand-Writing it is, here hath been Variety of Evidence as to that. It is inſiſted on by the King's Counſel, that the Scheme is of Mr. *Layer*'s Hand-Writing; and if ſo, this is a ſtronger Evidence againſt Mr. *Layer*, than if the Papers had been only found in his Cuſtody. How ſtands that? Here is one that was Mr. *Layer*'s Maſter formerly, who ſaith he verily believes this to be the Hand-Writing of Mr. *Layer*; if that be ſo, then all is well, and it ought to be read, not only as a Paper that was in his Poſſeſſion, but as a Paper that was writ by him: But they diſpute, and ſay, 'tis not his Hand-Writing; they aſk this Witneſs how long it is ſince the Priſoner lived with him as his Clerk? about fourteen or fifteen Years ago, ſays the Witneſs: A Man's Hand, ſay they, may be changed in that Time: But, ſaith the Witneſs, I verily believe it to be his Hand-Writing, for I have within theſe five Years received ſeveral Letters from him about Buſineſs, there being a Correſpondence between him and me, I being his Agent in Town, and theſe Letters are of the ſame Character he uſed fourteen or fifteen Years ago, therefore I believe it to be his Hand-Writing.

But, ſay the Counſel for the King, we won't only prove this by theſe Gentlemen, but the Priſoner himſelf hath confeſt it. Well, how ſtands that? He confeſt, when he was askt at the Council-Table, what he knew of Arms that were provided; He ſaid, he knew of none. To which when it was ſaid, how came you to mention it in this Scheme of your own Hand-Writing, there you take Notice of Arms that were provided? doth Mr. *Layer* diſown it? no ſaith he, 'tis a Miſtake, I ſhould have writ, which *ſhould be* provided.

Gentlemen, take this together, conſider with yourſelves what the Import of it is. He ſaith, when he is asked about theſe Arms, I ſhould have writ, which *ſhould be* provided. Whether this doth not amount to a Confeſſion of this Matter, muſt be left to your Conſideration, as a confirming Evidence of what the other Witneſſes ſwear. But, ſaith Mr. *Layer*, let me call a Witneſs to prove that it is not my Hand-Writing: He calls a Gentleman, and he ſays it is not his Hand-Writing; he calls his Clerk, and his Clerk ſaith it is not his Maſter's Hand. Here are two Witneſſes: Then there is an additional Witneſs on the other Side, and that is, his own Confeſſion. Whether it amounts to a Confeſſion muſt be left to your Conſideration; but if this Scheme be not of his own Hand-Writing, it was a Scheme which he had in his Cuſto-

dy, and that alone had been a conſiderable Evidence againſt him. How came he by this Scheme? What had he to do with it?

The Scheme hath been read to you which tells you the ſeveral Methods to be proceeded in. In the firſt Place, the Tower is to be ſeized, an Officer is to mount the Guard that would be in their Intereſt, and at nine a-Clock at Night they are to ſeize the Tower: Then they are to go to the Bank, and ſet a Guard there, after they have taken out Money from thence: After this he tells you of ſeveral other Guards that are to be ſet in other Places, and then a Party is to be ſent to ſeize the King; then he tells you, another Party is to be ſent over the Water to ſeize his Royal Highneſs the Prince; he calls him by a Cant Name, but 'tis plain he is meant.

If this be all his own Hand-Writing, it is a ſtrong Evidence that he was in this Conſpiracy; but if he had only a Scheme of this Nature in his Cuſtody, that will be an Evidence againſt him, tho' he did not write it.

Now whether every Body is not ſatisfied that theſe Bundles were his, when in theſe Bundles theſe Receipts ſigned by the *Pretender* himſelf, and the Paper that was of his Clerk's own Hand-Writing, were found; it goes a great Way to confirm the Evidence of Mrs. *Maſon*, who ſwears the Bundles to be his Papers.

Theſe are Matters of Evidence, and muſt be left to your Conſideration.

Then they go on and examine the treaſonable Papers, the Notes, the Liſts, *&c.*

To raiſe an Inſurrection Money would be wanting; ſaith Mr. *Layer*, I told Sir *William Ellis* this. Upon that there are Receipts ſigned by the Pretender, by which the Priſoner ſaid they might take up Money on that Occaſion. Sir *William Ellis* agrees with me, ſaith Mr. *Layer*, and accordingly ſends me Receipts, and I had them, and they were found in this Bundle of Papers; and and how came they there, if they were not Mr. *Layer*'s Papers?

Conſider the other Papers; the Deſign being for an Inſurrection, they are to engage the Guards in their Service; you ſee that ſeveral Papers are found in theſe Bundles that contain an Account of the Number of Men that were in ſuch a Troop of Guards, the Number in ſuch a Troop of Grenadiers, and tells you what the Numbers were; What was the Meaning of all this? how came this Gentleman to be ſo ſolicitous in examining into the Number of Guards and Officers, but only to get a true State of this Matter, that he might know who were the Perſons that were moſt likely to be corrupted, and what a Number of Enemies he might meet with on this Occaſion?

Theſe are very ſtrong Circumſtances againſt Mr. *Layer*, unleſs Mr. *Layer* can give any Account why he kept theſe Papers ſo carefully.

To go a little back, as to the Buſineſs of Mr. *Lynch*; it appears he did not know Mr. *Lynch* before this Affair was ſet on Foot; he rode out with him, goes to the *Green-Man* with him, there they talk'd over this Affair, there he publiſhes that traiterous Declaration, and afterwards preſented *Lynch* to my Lord *North* and *Grey*. How came they ſo intimately acquainted unleſs on this Occaſion?

Then, Gentlemen, they go on and tell you, when this Gentleman was committed into the Cuſtody of a Meſſenger he made his Eſcape, and this we look upon as an Evidence of Guilt, not a concluſive Evidence; a Man may eſcape tho' he is innocent, yet 'tis an Evidence that is material to be left to the Jury, and is proper for their Conſideration; he is purſued and retaken; when he is retaken he is under great Conſternation, he begs for the Lord's Sake they would let him go, and ſaid it was an Arreſt; he took out of his Pocket a great Number of Guineas, and ſaid they ſhould have what Number they pleas'd, if they would let him go; this is a material Circumſtance, and doth ſhew that this Gentleman was more than ordinarily concerned in this Affair.

You will lay theſe Things together, and conſider how far they ſatisfy you, that this Gentleman is guilty of the Treaſon.

Then they give an Account how he did confeſs before the Lords of the Council every Thing that hath been ſworn by the Witneſſes: That he went to the *Green-Man* in your County, and there conſulted and agreed to carry on this Affair; that he did take out and read the Declaration; this is a ſtrong Evidence, eſpecially if compared with what he confeſſed, that he had Two Conferences with the *Pretender* at *Rome*, was kindly received by him, and had particular Marks of his Favour; He is deſired to ſtand

God-

God-father, and his Wife to ſtand God-mother to his Child; and accordingly they ſtood; he deſires my Lord *North* and *Grey* to ſtand as Proxy for the *Pretender*, and the Dutcheſs of *Ormond* to be Proxy for the *Pretender*'s Spouſe; and they were Proxies at the Chriſtening of his Child. Theſe are the Circumſtance that have been laid before you on Behalf of the King againſt the Priſoner at the Bar. But 'tis ſaid on the Behalf of the Priſoner, that he ſtands at the Bar upon his Life and Death, which will depend upon your Verdict.

I think you ought to conſider of that, and that I hope will induce you to conſider and weigh well the Evidence, and not to find the Priſoner Guilty, unleſs you are ſatisfied he is ſo.

It is true, here is the Life of a Man in the Caſe, but then you muſt conſider likewiſe the Miſery and Deſolation, the Blood and Confuſion, that muſt have happened if this had taken Effect, and put one againſt the other; and I believe that Conſideration, which is on the Behalf of the King, will be much the ſtrongeſt.

Theſe Things are proper to be conſidered, in Order to prepare you to be careful in examining and weighing the Evidence well; but in giving your Verdict I hope you will lay them all aſide; you will conſider the Weight of the Evidence on either Side, and the Credit of the two Witneſſes, and how far they are ſupported by a Writing under his own Hand, a Confeſſion at the Council-Table; conſider how far that will ſupport their Evidence, tho' not Men of the cleareſt Reputation.

A Cypher hath been taken Notice of, by which were explained ſeveral Names that ſuch and ſuch Perſons and Things were to be called by; there was the Name of *Atkins*, which was to ſignify the *Pretender*; there was another Name for the *Pretender*, and that was St. *John*; and conformable to theſe Names they have read ſeveral Letters, by which it appears that a treaſonable Correſpondence was carried on by Mr. *Layer*. This is the Circumſtance of the Evidence that hath been laid before you. Conſider this Evidence, and the Objections that have been made to it, and how far thoſe Objections have been anſwered.

Diſcharge the Part of Honeſt Men, conſider and weigh well the Evidence.

Upon the the whole Matter, if you do believe that there was an Overt Act of Treaſon in the County of *Eſſex*, and that it was proved by Mr. *Lynch*, and confirmed by the Confeſſion of Mr. *Layer*, and if there be any Overt Act in another County, as his liſting or employing any to liſt or engage Men in the Service of the *Pretender*, then you will find the Priſoner guilty.

If you are not ſatisfied theſe Things are true, then you'll acquit him.

The Jury withdrew for about half an Hour, to conſider of their Verdict, and when they returned into Court, were called over by the Clerk of the Crown and anſwered to their Names.

Clerk. of the Cr. Gentlemen of the Jury, are you agreed on your Verdict?

Jury. Yes.

Clerk. of the Cr. Who ſhall ſay for you?

Jury. Our Foreman.

Clerk. of the Cr. Chriſtopher Layer, Hold up your Hand, (which he did.) You of the Jury, look upon the Priſoner.

How ſay you? Is *Chriſtopher Layer* Guilty of the High Treaſon whereof he ſtands indicted, or not Guilty?

Jury. Guilty.

Clerk. of the Cr. What Goods andChattels Lands and Tenements had he at the Time of the ſaid High Treaſon committed, or at any Time ſince, to your Knowledge?

Jury. None.

Clerk. of the Cr. Hearken to your Verdict as the Court has recorded it. You ſay that *Chriſtopher Layer* is guilty of the High Treaſon whereof he ſtands indicted; and you ſay he had no Goods nor Chattels, Lands nor Tenements at the Time of the ſaid High Treaſon committed, or at any time ſince, to your Knowledge, and ſo you ſay all.

Mr. *Att. Gen.* We pray a Rule may be made to bring up the Priſoner to receive Sentence.

Mr. *Att.*

Mr. *Jus. Eyre.* He muſt have four Days to move in Arreſt of Judgment. Let there be a Rule to bring him again upon *Thurſday* next.

Then the Priſoner was remanded back to the *Tower*.

Die Martis 27 die *Novembris*, 1722.

Chriſtopher Layer, Eſq; *was brought to the Bar of the Court of King's Bench in Order to receive Sentence.*

Mr. *Att. Gen.* MY Lord, the Priſoner at the Bar ſtands convicted of High Treaſon; I pray your Lordſhip's Judgment againſt him for the King.

Clerk. of the Cr. Chriſtopher Layer, Hold up thy Hand, (which he did,) Thou haſt been indicted for High Treaſon, for compaſſing and imagining the Death of the King, and thereupon been arraigned, and thereunto haſt pleaded on Guilty, and for thy Tryal put thy ſelf upon God and thy Country, which Country hath found thee Guilty; What canſt thou now ſay for thy Self why the Court ſhould not give Judgment of Death againſt thee according to Law?

Mr. *Hungerford.* Is it your Lordſhip's Pleaſure to give any Directions touching the Matter of the Priſoner's being in Irons? I hope your Lordſhip will order them to be taken off, at leaſt during his Attendance here.

Ld. Ch. Juſt. I don't know, there is none of the Caſes that have been, which go further than during the Time of his Tryal; his Tryal is over, if he hath any thing to offer to the Court, and thinks he may not be able to do it ſo well while he is under theſe Irons, I would recommend it to Mr. Attorny, not to make a Precedent of it, that his Irons may be taken off.

Priſoner. Yes my Lord, I have a great deal to ſay, which I ſhall offer in Arreſt of Judgment.

Mr. *Hungerford.* He hath complain'd ſince he hath been here, that he is in great Pain, in the Poſition he ſtands with his Irons.

Ld. Ch. Juſt. Come, Brother *Pengelly*, have you any thing to object againſt his Irons being taken off, or do you Conſent to it?

Mr. *Serj. Pengelly.* My Lord, we don't oppoſe it.

Then the Irons were taken off.

Mr. *Serj. Pengelly.* My Lord, the Priſoner at the Bar, Mr. *Layer*, after a long and a fair Tryal, hath been found guilty of High Treaſon; and on Behalf of the King, we pray the Judgment of the Court againſt the Priſoner.

Mr. *Hungerford.* By your Lordſhip's Indulgence, I am Counſel for the Priſoner at the Bar, I have, and I hope I ſhall continue to do him what Service I can: The Priſoner's Life is at Stake, and I hope I ſhall not be ſuppoſed to be troubleſome, if I deſire a Record to be read, which hath not been yet read in Court; it is the *Venire*, and that being part of the Record we think we are proper to have it read.

Mr. *Serj. Pengelly.* We apprehend it is ſuch a Requeſt as has never been made: If they have any Objections to any part of the Procedings, or any Exceptions to take, they are at Liberty to take them, and to ſtate their Objections, that the Court, if neceſſary, may refer to the Record to ſee whether they are juſt or no; but to come and deſire the Proceſs to be laid before the Court for the Information of the Priſoner and his Counſel, it never hath been done: They are entituled now to offer any Thing, if they can, in Arreſt of Judgment.

Mr. *Att. Gen.* If what they deſire ſhould be granted, it would be a Precedent which might be of very ill Conſequence, and I appprehend what they deſire, is directly contrary to Law; there are no Authorities that the Priſoner ſhould either have Copies of the Proceſs, or that the Proceſs ſhould be read to him, only to enable him to find a Fault. I believe no Inſtance can be given whatſoever, that it was ever allowed in a Caſe of this Nature, if it be done now, it will be a Precedent for the future.

The Act of Parliament went as far as was thought proper. Copies of the Indictment and Copies of the Names of the Jury, are directed to be delivered to the Priſoner; but as to any of the Proceſs, the Act gives no Direction, and therefore as what they deſire is neither founded on Law, nor Precedent, we hope it ſhall not be granted.

Mr. *Sol. Gen.*

Mr. *Soll. Gen.* My Lord, Mr. *Hungerford* has been pleaſed, in the Courſe of this Cauſe, frequently to put us in mind, as he does now, that what he has inſiſted on, was in favour of Life. That is a moving Argument, but it proves nothing, ſave that the Priſoner ought to have all the Indulgence which the Law and the ſettled Forms of Proceeding do allow; but I apprehend it is a Reaſon for no more. What is asked, is of more Conſequence than appears in this particular Caſe, and whatſoever your Lordſhip doth now, will be made a Precedent for the Future.

My Lord, before the Act of Parliament, which allows the Priſoner to have a Copy of his Indictment, and of the Pannell of the Jury, it is moſt certain, he was not entitled to have ſuch Copies. Before that Law was made, he was informed of nothing but by having the Indictment read to him in Court upon his Arraignment, and that not barely to give him an opportunity of taking Exceptions to it, but from the Neceſſity of the Thing, becauſe it was the Charge to which he was to anſwer. Then comes the Act of Parliament, the 7th Year of King *William*, and allows the Priſoner a Copy of his Indictment, and of the Pannel of his Jury. But the Legiſlature, when they had theſe Matters under their Conſideration, and ſeem to have intended to give at leaſt all the Indulgence, conſiſtent with Reaſon, to Priſoners in Caſes of High Treaſon, even at that time they went no further, and did not think fit to direct that to be done, which is now deſired on the behalf of this Gentleman. Therefore this Motion of Mr. *Hungerford's*, muſt be underſtood to be made at Common Law; but I muſt beg leave to rely upon it, until ſome Precedent is produced on the other Side, that there is no Inſtance whatſoever, either before or ſince the Act of Parliament, wherein any Record of the Proceedings hath been read to the Priſoners beſides the Indictment. This is a Conſideration merely of Practice and Regularity; and in a Point of that kind, where there is no Precedent, I hope your Lordſhip will not make one.

Mr. *Serj. Cheſhyre.* My Lord, the Carriage and Behaviour of the King's Council towards the Priſoner, hath been ſo fair and candid, that it deſerves Thanks from him, rather than Complaint, and I believe this Temper will hold on to the laſt: But my Lord, we have no Authority to give up the Right of the Crown, or to fix that on the Crown to grant, which the Priſoner hath no Right to demand.

My Lord, it muſt be admitted, that this is a Demand made at Common Law, and if it be a Demand of Right, I don't know but it may go to every thing in an equal Degree; that he hath the ſame Right to demand a ſight of the Commiſſion; *Certiorari*, &c. I don't know but he hath the ſame Right to enquire into every ſtep that is upon Record in this Caſe. The Officers concerned, I dare ſay, have done their Duty. There is nothing of Law, but what comes in upon the Statute of King *William*; that he hath had the benefit of to the full extent of it; he hath had a Copy of the Pannel of the Jury; he hath had a Copy of the Indictment, and in ſuch time as was proper for him to make due uſe of it; and this they ask now, we apprehend is only to lengthen out time, and to introduce that which may be greatly inconvenient. We have very little Reaſon of apprehending that it can be of any Profit to him; but for Example ſake, and as he hath no Right to it, we cannot come into a Conſent to it.

Therefore we ſubmit it to your Lordſhips Conſideration, from the Inconvenience that may enſue from the Precedent, whether the Priſoner hath any Right to make this Demand.

Mr. *Hungerford.* I acknowledge that before the 7th of King *William*, the Priſoner was not entitled to have a Copy of his Indictment, and therefore I ſo far concur with the Gentlemen of the other Side, that we are not entitled to a Copy of the Record of the *Venire Facias*. But what I humbly pray now, is, what I apprehend we were entitled to before the Act of Parliament for regulating Trials in Caſes of High Treaſon. The Inſtances are ſeveral, where in the Courſe of a Trial for High Treaſon, before that Act which gave the Priſoner ſeveral new Advantages, the Priſoner hath deſired his Indictment to be read, and the Court never denied it; to have any other part of the Record to be read, ſeems to be as reaſonable as the Indictment. The Objection had been ſtronger, if we had deſired for the Priſoner at the Bar, the Copy of the *Venire*; there we ſhould have been juſtly told that we had been entitled for nothing but what the Act of Parliament had directed, *viz.* the Copy of the Indictment. We pray a Copy of nothing, but only pray that a ſmall Part of the Record that makes up the whole Record of this Gentleman's Conviction, may be read. And this, with Submiſſion, we hope we are entitled to have for the ſame reaſon as the Indictment was read before the Act. Coll. *Sidney* deſired, that his Indictment ſhould be read, and it was ſo. And can any Reaſon be aſſigned, why the

the *Venire*, which is but a Part of the Record, ſhould not be read as well as the Indictment, no Part of the Record of Conviction is more ſacred than the other; and why therefore ſhould not one Part be read as well as the other.

Mr. *Serj. Pengelly.* Can you ſhew any Caſe where the Indictment was read, upon the Prayer of the Priſoner, after Conviction, and before ſome Exception taken?

Lord Chief Juſ. We would be far from refuſing any Indulgence to the Priſoner that by Law we are warranted to grant him; what you ask now, you muſt own is without any Precedent whatſoever. You know, that before the Act of Parliament you were not entituled to, nor could demand a Copy of the Indictment: It is very true what you ſay before the Act of Parliament; when it hath been deſired by the Priſoner the Indictment hath been read, and that Method of proceeding having been allowed, gave him a Right to demand it; but you cannot produce any once Inſtance that ever he demanded this that now you offer; that ever he demanded the *Venire* ſhould be produced and read to him.

Conſider how ſtrict the Law was in Caſes of High Treaſon; ſee the Act of Rights: The Courſe of the Court is the Law; this which you now deſire was never ſo much as ask'd for, nor did this Court ever grant; and if ſo, how can the Court be warranted to grant that which never was granted, nor was ever deſired to be granted. The Reaſon of it is, that every Body was ſatisfy'd by Law it could not be granted.

You have inſtanced in Caſes of great Perſons, Colonel *Sidney*, Lord *Ruſſel*, and others that have been attainted of High Treaſon, who could not want Advice to deſire any thing that was proper, or that they had a Right to demand. Neither they nor any of the greateſt Quality that have had the Misfortune of being try'd for an Offence of this Nature, ever demanded it; which is an Admiſſion that they were not entituled to it; and if the Courſe of the Court be ſo, we muſt not eſtabliſh a new Courſe; we can't ſee what the Conſequences may be.

Mr. *Juſ. Eyre.* The Caſe of reading the Indictment to a Priſoner is certainly very different, and can be no Authority to warrant the reading of the *Venire*; for the Indictment is the Charge to which the Priſoner is obliged to plead, and he muſt know his Charge before he can give it an Anſwer: Beſides, the Merit and Juſtice of the Caſe depend entirely upon the Indictment, which muſt be read, in order to underſtand the true State of the Queſtion, and to ſee the Fact to which the Witneſſes are to be examin'd. 'Tis therefore abſolutely neceſſary, that the Indictment ſhould be read; but none of theſe Reaſons will ſerve for reading the *Venire*, which is only to ſummon the Jury, and bring them to the Bar; and therefore as it was never done, nor ever asked before, I can by no means think it fit for us to allow it now.

Mr. *Juſt. Powys.* I think it is a perfect Novelty what you demand, and not only ſo, but in its Conſequences very dangerous: For, properly ſpeaking, the common Uſage to move in Arreſt of Judgment, hath been out of the Indictment; but to run back to thoſe things, which if you had a Right to demand it had been proper to have done it before; and ſince you have many times known that nothing but the Indictment hath been read, ſince the Judges were never mov'd, nor any thing of this kind done, and nothing in the World hath been demanded like it; if it ſhould be granted at this time, when Men are to receive Judgment, and Exceptions are to be taken to the Indictment, if they ſhould run back to all the Proceedings, it would be a thing of ſtrange Conſequence. But beſides that, it is a thing you have no Example for, it hath been never done; and it hath been obſerved, that nothing but the Copy of the Indictment hath been read before this Act of Parliament of King *William*. Now there are two things given by this Act of Parliament of King *William*; the Priſoner is to have the Copy of his Indictment five Days, the Copy of the Pannel of the Jury two Days before his Trial, and theſe were propoſed as Advantages which the Common Law did not admit: Shall we come to unravel all the Matters preceding, it would be a Matter of ſtrange Conſequence, and what we can't do or warrant by Law: If you have any thing to move out of the Indictment, we are ready to hear it.

Mr. *Juſ. Forteſcue Aland.* This is perfectly new, or elſe in favour of Life I ſhould be ready to grant it: The true Reaſon of having the Indictment read is, that the Priſoner may know what his Charge is, in order to make his Defence at his Trial; but that Reaſon holds not in this Caſe, which is after Conviction, and what is ask'd now is not relative to his Charge, but concerns the Acts of the Court only. The Court will aſſiſt in Matters of Law, when they appear, but will never

ver aſſiſt the Priſoner with Facts, in order to make Points of Law; and therefore it has been denied the Priſoner to take Minutes even of the Indictment, and for the ſame Reaſon Counſel has ever been denied, in all capital Caſes, before the late Act of Parliament, unleſs a diſputable Point of Law did ariſe and appear.

You move this Matter as a Motion purely at Common Law; and as ſuch it will extend to all Indictments of Murder, and other capital Caſes, which may be of very evil Conſequence. It would be very ſtrange to have all the Proceedings upon Indictments read to the Priſoner; and there is as much Reaſon to call for all as for the *Venire facias*: I take it clearly there never was a Caſe, where the Acts and Proceedings of the Court have been called for to be read to the Priſoner, and for no other Purpoſe but to make an Error: It is a thing that is entirely new, the Conſequences may be very fatal, and therefore I think it is an unreaſonable Motion, and ought not to be granted.

Mr. *Hungerford.* I aſſure your Lordſhip I did not do it out of an Affectation of Novelty, neither ſhall I perſiſt in urging it further, ſince the Court hath given their Opinion; but I thought the Reaſon of the thing, in reading the Indictment, before the Act of Parliament was with me; but ſince it is your Lordſhip's Opinion that it is otherwiſe, I deſire your Lordſhip to give me leave to go on.

Priſoner. I beg leave to ſay but a ſhort Word in reſpect to this Objection that hath been made by Mr. *Hungerford.* If I take the thing right, it is, that the *Venire* may be read, to ſee if it is properly iſſued, and I hope thus far it ſhall be granted, to ſhew a Reaſon why this *Venire* is returned on one Day, and the Jury appear on another; and if it doth appear that there is an Error in the Proceedings on the foot of the *Venire*, I humbly hope I ſhall have the Benefit of it. The Objection, I take it, muſt be this; the *Venire*, I take it, is returnable the 19th of this Month of *November*, I was not try'd till the 21ſt; therefore, what I humbly offer is, whether or no, after the Return of the Writ, this is a good convening of the Jury together to try me on a Writ, when there was no ſuch Writ in being, more eſpecially when the Proceedings againſt me are by Original, where the Returns in this Court are the ſame as in the Common-Pleas; ſo I ſhall leave it to my Counſel to ſay the reſt, and humbly hope, that I ſhall have leave to look into the *Venire*, and if it comes out ſo, I hope it is erroneous, and that Judgment ſhall be arreſted.

Mr. *Hungerford.* The Gentleman hath given Utterance to ſome of my Thoughts; and not by comparing of Notes, for I have not ſeen his Face, nor heard from him ſince I ſaw him here at the Bar at his Trial.

That which occurrs to me on this Occaſion, but I can but gueſs at ſome part of the Fact, is, I take it, that the *Venire* bears Teſte the laſt Day of *October*, and is returned the 19th of *November*; there are ſtated Return Days of the Law, and, my Lord, if a Man appears in a Court of Juſtice one Day, and he is not by the Courſe of proceeding indulg'd with a further Day of appearing, there is a Diſcontinuance of the Proceſs, and the Man is out of Court. The different Days the Law takes notice of for this Purpoſe are, the Eſſoign Day, the Day of Exceptions, the Day of Appearance, the *quarto die poſt*; I take the *quarto die poſt* to be an Indulgence which a Court of Juſtice gives to a Suitor to appear at a further Day, when he ought to have appeared at a former Day; and this is the Practice in Real Actions in the Court of Common-Pleas. As to the Exception Day, the Uſe of that is, that a Man that is ſummon'd may object to the Summons, as not being a fit and regular Summons to draw him in Contempt.

But, my Lord, in Caſes of Juries, who are not Suitors in Court, I take the Law and the Practice to be, that they are oblig'd to attend upon the Proceſs of the Court: I take it, they muſt do Duty on the Return of the *Venire*, which, in this Caſe, is on *Monday* the 19th of *November*, and they did not appear till *Wedneſday* the 21ſt; ſo that if they were to appear on *Monday* the 19th of *November*, and did not appear then, there muſt appear ſome Act of the Court, by which they are indulg'd to a further Day: And I put it upon Mr. *Harcourt* to ſhew, whether there is any Indulgence of the Court enter'd upon Record for the continuing of the Jury till *Wedneſday* following; and if there is not, there is then a Diſcontinuance of their being in this Court, and conſequently the Proceedings are irregular, and the Trial a Miſ-trial: I ſhall quote ſome Authorities which juſtify this Obſervation; when a Man by a Proceſs of Court appears on the Day of the Return of that Proceſs, unleſs there be a Continuance of that Proceſs, that *ulterior die datus eſt* to the Party, or a ſubſequent Proceſs iſſues that Day, the Law deems that Chaſm in the Proceedings to be a Diſcontinuance, and that the Party

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is out of Court. It was ſo reſolv'd in *Yelverton*, 204; and 2d *Coke*, 284. It is the Caſe of *Bradley* and *Bancks*; and reported in both Books, but moſt fully in *Yelverton*. There is an Authority which weighs with me ſomething more, and ſeems to be a Caſe in Point; it is the Caſe of *Peplow*, and *Rowley*, 2d of *Croke*, 357. and there the Caſe is on a Writ of Error brought upon Proceedings in the Court of *Shrewsbury*, where the Uſage was, to hold Plea in ſome Real Actions, and there was an Entry that the Parties did not appear on a preceding Day, but made Default: And the Entry was *habuit diem per defalto*' given to the Party by the Court, *Secundum conſuetudinem ville predicte*. This came before this Court by a Writ of Error, and it was adjudg'd, that both the Entry and the Cuſtom were naught. The Reaſon aſſign'd why the Entry was ſo, is, for that the Party having made Default, was out of Court, and the Court could upon that Proceſs give him no new Day to appear. And the Reaſon why the Cuſtom it ſelf is naught, is, for that there can be no Cuſtom to help that (which the Book calls) a Diſcontinuance at Common Law; for if the Man be out of Court, he can't be brought in there again by the ſame Writ.

My Lord, if that be the Caſe then, that the Jury were to appear on the 19th, and there is no Entry to continue them till *Wedneſday* the 21ſt, when by the Authority of theſe Caſes they had no Call nor Right to appear, but were out of Court, the Trial was no legal Trial, and conſequently no Trial at all.

I am told, that the Practice of all Trials at Bar is, that the Jury do appear here on the Return of the *Venire*, and immediately proceed to do Buſineſs; why ſhould it not be ſo too in a criminal Caſe, as this is? I think the Reaſon in both Caſes is the ſame: I humbly hope therefore, my Lord, that if the Fact be as I have repreſented, that there is no Entry to continue over the Attendance of the Jury from *Monday* to *Wedneſday*, there is a Blemiſh in this Proceeding; and you can't proceed to Judgment againſt the Priſoner at the Bar.

Mr. *Ketelbey*. If your Lordſhip will favour me ———

Ld. Ch. Juſ. You ſhall be fully heard; but becauſe Mr. *Hungerford* hath appeal'd to Mr. *Harcourt*, I ſhall ask Mr. *Harcourt* this Queſtion about the Matter of the *Venire*.

Mr. *Harcourt*. I ſhall be very tender in this Matter, where the Life of the Priſoner is at Stake, as Mr. *Hungerford* has obſerv'd, and will not ſay any thing but what I am ſure is the Courſe of the Court. If a *Venire* be returnable the firſt general Return of the Term, the Appearance-Day of the Jury is the *quarto die poſt*, which is the firſt Day of the Term. If the Court be not pleaſed to try the Priſoner then, they may adjourn the Jury over to any Day before the next Return in the Term; but no Entry is ever made on Record of ſuch Adjournment, and the Proceedings are always enter'd on Record to be at the Return of the Writ. In all other Returns in the Term, there is the ſame Courſe obſerv'd: The Jury is never oblig'd to appear before the *quarto die poſt*; nor can the Priſoner be try'd ſooner. What makes this clear is, to conſider the Proceedings on *Diſtringas*, where the Priſoner is not try'd on the *Venire*: In ſuch Caſes, the *Diſtringas* is never teſted on the Return-Day, but the *quarto die poſt*; which, if what is inſiſted on by the Priſoner's Counſel is Law, would make a Diſcontinuance, and that has always been held otherwiſe; for till there has been a Default of the Jury's appearing at the *Venire*, no *Diſtringas* can iſſue, and no Default can be objected to the Jury for not appearing till the *quarto die poſt*; nor are they amerciable ſooner for not appearing. This Matter was ſettled, on great Deliberation, by my Lord Chief Juſtice *Holt*; and I am confident, has been ever ſince ſo practis'd.

Mr. *Ketelbey*. My Lord, It was my Misfortune not to get into Court ſooner; ſo that I did not hear the firſt Application Mr. *Hungerford* made to your Lordſhip on behalf of the Priſoner, nor ſhall I preſume to break in upon what your Lordſhip has already determin'd; but whether or not we are entitul'd to ſee the *Venire*, or hear that Part of the Record read. I hope we ſhall be able to make out, that there has been a Miſ tryal in this Caſe. The *Venire*, it is agreed on all hands, was returnable *octabis Martini*, which was *Monday* the 19th of *November*. That the Priſoner was not tried till the 21ſt, is moſt certain. The general Return was *octabis Martini*, and he was not tried till two Days after; and notwithſtanding what Mr. *Harcourt* hath ſaid, I muſt beg Leave humbly to inſiſt, that there hath been a Miſ-trial, and Judgment ought to be arreſted; and for that I have as ſtrong an Authority as any that can be cited in this Court, 'tis the Trial of *Rookwood*; and for the greater Certainty, I have brought the Book along with me, and have it in my Hand; where it is agreed, by the Court, and all the King's Counſel, that the Trial muſt be on the Day of the Return of the *Venire*, or elſe that it would be Error:

Error: And my Lord Chief Juſtice *Holt* declar'd, the Iſſue could not be tried after the Day of the Return: This Matter came before the Court upon an Exception taken by Sir *Bartholomew Shower*.

Mr. *Juſ. Eyre.* That was on a Commiſſion of *Oyer* and *Terminer*, which was quite different; there is no *quarto die poſt* there, no Day of Appearance, but the Day of the Return of the Writ.

Ld. Ch. Juſ. It muſt be ſo, becauſe there is no ſuch thing as a *quarto die poſt* in Commiſſions of *Oyer* and *Terminer*.

Mr. *Ketelbey.* I ſubmit it to your Lordſhip, whether there is any *quarto die poſt* in a *Venire*?

Ld. Ch. Juſ. It is always ſo.

Mr. *Juſ. Eyre.* You know we had the Conſideration of this when we appointed the Tryal.

Mr. *Ketelbey.* I beg leave to offer one Word, That in caſe of a *Venire*, there is no *Quarto die poſt*, becauſe there is no *Eſſoigne*, no Exception Day for the Jury. The Authority in firſt *Roll*'s *Abridgment*, 822. *Placit.* 4 & 6. is expreſs, That in a *Venire facias* or a *Scire facias*, there is no *Eſſoign*: and where there is no *Eſſoign*, there can be no Day of Exception, becauſe the Exception depends on the *Eſſoign*-Day, and conſequently the Day of Appearance the ſame. The Caſe of Eſſoign, Exception, Return, and Appearance Days, concern only original Writs, and the Plaintiffs and Defendants therein; there if the Defendant appears, rhe *Quarto die poſt*, his Appearance ſhall be accepted as good, and no further Proceſs made againſt him. But who ever heard that a Jury were Eſſoigned? There are ſeveral other Authorities for this. *Dalton*, 415. *2d Inſtit.* 125. & *33 H.* VI. 5. *b.* that no *Eſſoign* lies upon a *Venire facias*; and the *Eſſoign* was quaſhed.

Ld. Ch. Juſ. This you now offer will ſet aſide all the Proceedings either on the Plea Side, or the Crown Side.

Mr. *Ketelbey.* There is a Caſe reported in the Year-Book, *Michs.* the *33 Henry* VI. *fol.* 35, 36. and abridged in *Brook*, Title *Niſi prius*, *Pl.* 32. It was diſputed by the Judges of the Bench, and at firſt there was a difference of Opinion among them; but at laſt it was unanimouſly reſolved, That the *Niſi prius* was not well taken. I will ſtate the Caſe as it appears in the Year-Book and the Abridgment. There was a Writ of *Niſi prius* made with a certain Return, and the Juſtices tried the Iſſue upon a Day *meſne* during the Interval between the *Quarto die poſt*, and the Return of the Writ. This was objected to, and ſaid to be a Miſ-tryal; and afterwards the Judges agreed in their Opinion, that it was a Miſ-tryal, becauſe it was not upon the Return-day of the Writ of *Niſi prius*; and if not upon that Day, the Tryal ought not to have been at all. And I don't apprehend any Difference between that Caſe and this, but only that was at *Niſi prius*, and this a Trial in Bank. There is no Continuance lies on a *Venire facias*; and if ſo, I ſhall ſubmit it, whether there is any Appearance.

Mr. *Juſ. Eyre.* Sure there is a Day of Appearance on the *Venire facias*; the Proceedings in this Caſe are like thoſe upon an Original. The ſame Day which is the Day of Appearance for the Party upon an Original, is the Day of Appearance for the Jury upon a *Venire*.

Mr. *Ketelbey.* I believe it will be hard for Mr. *Harcourt* to ſhew where there is any *Eſſoign* on a *Venire facias*.

Ld Ch. Juſ. We have heard already what Mr. *Harcourt* hath ſaid. I deſire Mr. *Simon* may inform you how it is on the Civil ſide.

Mr. *Simon.* Our Proceſs where the Suit is commenced by Bill, is return'd on a Day certain in Court; that doth not reſpect this Caſe.

Ld Ch. Juſ. How is it when it is by Original.

Mr. *Simon.* Where it is by Original, it is always returnable as the Proceſs is in the *Common Pleas*; and the Day of the Appearance of the Jury, I take to be the *Quarto die poſt*.

Mr. *Harcourt.* If this was to be a Diſcontinuance, what will become of all the Records where the Proceedings are at general Returns, and which are tryed on the *Diſtringas*, which always bears *Teſte* the *Quarto die poſt* after the Return of the *Venire*? every one of theſe Records, which are many every Term, would be diſcontinued.

Ld Ch. Juſ. You can't but be ſenſible that there is nothing in this Exception.

Mr. Serj. *Pengelly.* There is no Foundarion for it in Practice.

Ld Ch. Juſ. You need not labour it.

Mr. Serj. *Pengelly.* The Sheriff, or the Jury, are not Amerciable, tho' they did not appear

appear on the Day of the Return, if the Jury do appear upon the *Quarto die poſt*; that ſhews it——

Mr. *Att. Gen.* If this Objection prevails, it will over-turn all the ſettled Courſe of Tryals at Bar.

Priſ. One thing I would humbly offer to your Lordſhip. I have not had my Books by me, but only what occurs to my Memory, I cannot be ſo exact as I ought to be. This Overt-Act in *Eſſex* of Treaſon found by the Jury to be ſo, I humbly apprehend, and I offer it to your Lordſhip's Judgment, in Law is no Overt-Act at all. All the Reaſon I ſhall humbly offer to your Lordſhip, that tho' it hath been ſaid, that there was a Conſulting and Agreeing in Order to levy War, yet it doth not appear that War to be levyed was ſuch a War as in the Law is adjudged to be Treaſon. My Lord, this differs from the levying War it ſelf. An Intention and Conſultation, or a Conſpiracy barely to levy War, unleſs War be levyed, it is no Treaſon. If it be a Conſultation to levy War againſt the King's Perſon, to impriſon the King, to dethrone and murder him, it ever hath been adjudged to be Treaſon. If it be only a Conſulting to levy War, as if to agree to break open Meeting-Houſes, to throw down Houſes, was the ſame as doing of it. There muſt be a War that is levyed, or elſe it is no Treaſon. Not only that, but I beg leave to ſay one word more. In my Caſe, all the Evidence given in reſpect of this Overt-Act in *Eſſex*, there is no Foundation for it; and if there is no Overt-Act in *Eſſex*, no Overt-Act elſewhere can affect me. It ſtands on the Evidence only of Mr. *Lynch*: he talks of a Declaration. Who read it? The only two things are a Diſcourſe between us, and a Declaration which I gave him to read. If that, as I humbly ſubmit it, be an Act of Treaſon, it is carrying the matter further than it hath been in thoſe few Caſes I beg leave to mention that juſt occur to my Memory. If I ſtate them wrong, I ſhall be ſorry. The Caſe of *College*, the *Oxford* Joyner. It was ask'd the Court, Do you take my Words diſtinct from my Actions? No, ſays the Court, we do not do ſo. You declared you would go down to *Oxford*, and aſſaſſinate the King's Perſon. In order to that, you went down with Piſtols before you. That at that time was declared to be an Overt-Act; the going down to *Oxford* in that manner; and the Court ſeemed to rely upon it, as the Overt Act of the Treaſon, and not the talking here, or conſpiring that he would aſſaſſinate the King, but the going down in an Hoſtile manner. So likewiſe in the Caſe of my Lord *Preſton*; there the Queſtion was, whether thoſe Letters that were found with him in the Ship; whether that was an Overt-Act of Treaſon. The Judges ſeem'd to be of Opinion, that the taking thoſe Letters with him as he was going to *France*, and there to conſult the ſtirring up an Inſurrection here, and to invite the *French* King to invade us, was an Overt-Act of Treaſon. But there is a ſtronger Caſe, the Caſe of my Lord *Ruſſell*. He was indicted, as I am, for compaſſing and imagining the Death of the King. The Overt-Act laid in the Indictment to manifeſt that Intention, was, that he, with the reſt of the Conſpirators, conſulted to ſeize upon the King's Guards: In purſuance to that Diſcourſe and Conſpiracy which they had had, it appeared Sir *Thomas Armſtrong* was ſent to take a View of the Guards in order to carry on the Deſign. Notwithſtanding there was a purſuing of their Deſign of ſeizing the King's Guards, in ſending Sir *Tho. Armſtrong* to view them, yet the Caſe was thought ſo very hard in reſpect to my Lord *Ruſſell*, that his Attainder was reverſed by an Act of Parliament. Therefore I only argue, with great ſubmiſſion, that in my Caſe, where nothing is done but accidentally calling in at the *Green Man*, ſtaying a little while there, and, as hath been ſworn, here was nothing but a mere Diſcourſe, and then I gave him a Declaration to read. If I did do ſo, it was only words. As to the ſecond, it was nothing but publiſhing a Libel. And ſhall this be a Foundation to deprive me of my Life and Eſtate, to the utter Ruin of myſelf and Family? It is an unprecedented thing, hath it ever been? Therefore I hope your Lordſhip, before you give any Judgment in this matter, will take it into your Conſideration, whether any thing done in *Eſſex* doth amount to an Overt-Act of Treaſon.

Mr. *Hungerford.* My Lord, I humbly hope, as it is my Duty to do what Service I can to my Client, and as it is in Caſe of Life, that I ſhall have your Lordſhip's Indulgence for a few Words. My Lord, he hath juſtly obſerved——

Mr. Serj. *Pengelly.* My Lord, I would not interrupt Mr. *Layer*, becauſe it may be ſuppoſed he is not ſo well acquainted with the method of Proceeding. But I hope I may take the Liberty to interrupt his Counſel, who know by very great Experience the method of Proceedings, that they are not now to inſiſt on the Nature

ture of the Evidence, whether the Evidence that hath been given is ſufficient to maintain the Indictment; that is not the Buſineſs of this Day. If they have any thing to offer, any Objections to make in arreſt of Judgment, that is the Buſineſs of the Day: but to arraign the Proceedings upon the Tryal, as it is ſaid that the Evidence given did not amount to a Conſultation, or to prove any Overt-Act of the Treaſon alledged I don't apprehend it to be proper at this time: I did not interrupt the Priſoner himſelf; but I hope his Counſel, who know the method of Proceeding better, in Caſes of High Treaſon, ſhall not be permitted to go on in that manner.

Mr. *Att. Gen.* The Gentlemen that are Counſel for the Priſoner know very well, that the Evidence given on the Tryal is not now before your Lordſhip; the ſingle Queſtion that can now be made is, whether the Indictment is good, and the Facts charged and found by the Jury, are well laid, and do amount to ſufficient Overt-Acts of the High Treaſon, of which the Priſoner ſtands indicted. Mr. *Layer* hath been giving an Account of the Witneſſes, and making Obſervations on the things which they ſwore; he was born with: But the Gentlemen that are his Counſel, ſeem to be opening in the ſame Manner, but as to them we muſt inſiſt upon it, that they ſhould be confin'd to what is proper, and apply themſelves to move in Arreſt of Judgment, if they can find any thing upon the Face of the Record of which they can take Advantage. But I think they are not entitled to go on with Obſervations upon the Evidence, in the Manner they were beginning.

Mr. *Hungerford.* I aſſure your Lordſhip I did not deſign it, I did not intend to recapitulate any part of the Evidence, or to obſerve upon it. And therefore there was no Occaſion for the Caution. I thank your Lordſhip for the Indulgence you give me, and I will conform myſelf to the Rules the *King's Counſel preſcribe*, to obſerve upon nothing but the Record.

My Lord, the Indictment is in this Manner; the Species of the Treaſon laid to the Charge of the Priſoner, is the compaſſing and imagining the Death of the King. The firſt Overt-Act of that Treaſon, is, that he did meet, conſult, conſpire and agree to raiſe a Rebellion and a *Guerram* in the Kingdom, which is no Overt-Act of compaſſing and imagining the Death of the King.

I know how the Authorities have been; but in the Caſe of Life, your Lordſhip will give me leave to obſerve, that by the Statute of 25 *Edw.* III. compaſſing and imagining the Death of the King——

Ld. Ch. Juſ. Mr. *Hungerford*, we would hear you any thing that is proper, but conſider, if you are not offering a matter in Arreſt of Judgment that hath been determined againſt you a hundred times. Hath it not been conſtantly allowed as an Overt-Act of Treaſon, in compaſſing and imagining the Death of the King, if the Parties did meet, conſult, and agree to levy War? Hath it not been conſtantly agreed, and doth it not ſtand allowed to be ſo? Now to perſwade us at this time to overthrow thoſe Reſolutions taken by our Predeceſſors, is ſuch a thing as is not right. Do you think we will give a Judgment contrary to what our learned Predeceſſors have given in Caſes of the greateſt Moment? If I thought it was of any effect, I ſhould not grutch ſpending time to hear you, but you muſt agree, it hath been over-ruled a hundred times.

Mr. *Juſ. Eyre.* It hath been ſettled a great many times, particularly in the Caſe of *Dorrel*, *Gordon*, and *Kerr*, in which it was argued over and over again, and the Court was of Opinion, that the conſulting and agreeing to levy War, was an Overt-Act of Treaſon in compaſſing and imagining the Death of the King, and gave Judgment accordingly.

Mr. *Juſ. Forteſcue Aland.* Mr. *Ketelbey* was Counſel for the Priſoners in that Caſe, which was in this Court in the 1ſt Year of this King, when this Objection was made; and very well knows, that the Court, upon that Occaſion, ſaid, that they ought not to have ſuffered this matter to be made a Queſtion, for that it was arraigning the Judgments of very many learned Judges.

Mr. *Juſ. Powys.* No one thing relating to Treaſon, is more ſettled; and in that Caſe as hath been mentioned, it was agreed, and it was the Judgment of all the Judges that tried that Cauſe.

Mr. *Hungerford.* My Lord I humbly hope——

Mr. *Juſ. Eyre.* It muſt not be admitted, we muſt not ſuffer ſo plain a Point to be diſputed; it is not only miſpending of time, but ſhaking what has been eſtabliſhed by every Trial in which any thing of this kind has been mentioned, from the Caſe of the Regicides to this Day.

Mr.

Mr. *Juſ. Powys.* In the Caſes of the Regicides, theſe Matters are printed in *Keyling.*

Ld. Ch. Juſ. And in all the Trials ever ſince, there is ſcarce one Caſe hath happened, where the Caſe hath been for compaſſing and imagining the Death of the King, but that it hath been laid for an Overt-Act, that the Party charged, did conſult and agree to levy War to bring his wicked Intentions to Effect.

Mr. *Hungerford.* There is no Doubt, but that the Regicides were the worſt and moſt notorious Criminals that were ever brought before a Court of Juſtice; and yet there is one Circumſtance of thoſe Trials, quoted in the very Book which Mr. *Juſtice Powys* mentions, which was never practiſed before, and I am ſure never was ſince; that is, the Judges who were to try the Criminals, and the King's Counſel who were to proſecute them, met and conſulted together to form and fix the Accuſation.

But if it is your Lordſhip's Pleaſure, I ſhall ſpeak no further to that Matter.

Ld. Ch. Juſ. You have the Opinion of the Court, and I dare ſay it is your own Opinion; and as the Reſolutions are ſo poſitive, it is not for us to make Indictments at this Day.

Mr. *Hungerford.* I ſhall not preſs it any further. There is another thing ariſes upon another Overt-Act laid in the Indictment, that is, *Publicavit quoddam Scriptum* &c. I apprehend the Subſtance of the *quoddam Scriptum* ought to be mentioned in the Indictment.

Ld. Ch. Juſ. It is mentioned in Effect, that it was to excite People to a Rebellion and an Inſurrection.

Mr. *Hungerford.* Your Lordſhip will obſerve that the criminal Words in the *Scriptum*, are not mentioned in the Indictment; and by the Rule given by all the Judges of *England* in Dr. *Sacheverell*'s Caſe, in all Accuſations, whether by Information or Indictment, the Words ſuppoſed to be criminal ought to be inſerted; and ſince that is not done in this Caſe, the Over-Act is not well laid, and the Judgment ought to be arreſted.

Ld. Ch. Juſ. You know, Mr. *Hungerford*, if but one Overt-Act is well laid and prov'd, it is ſufficient.

I don't know, I was ſorry you forc'd me to remember what I would willingly have forgot. I remember, on that Occaſion, you was pleaſed to compare it to a Ballad, which is an Expreſſion that ought not to be us'd. Is that a Thing, when a Priſoner is on Trial for his Life, and a Matter of an Inſurrection is intended againſt the King, to be treated in ſo ludicrous a manner? It is laid as an Overt-Act of Treaſon, and what is an Overt-Act of Treaſon, if a Man's publiſhing a traiterous Libel, and exciting Perſons to a Rebellion and Inſurrection againſt the King is not? This is undoubtedly ſo: And when we are upon this Conſideration, to compare it to a Ballad, and ſay he might as well publiſh a Ballad, and lay it as an Overt-Act of Treaſon in the Indictment; it is an Expreſſion that ought not to be us'd, and I was very ſorry you did uſe it.

Mr. *Hungerford.* I am ſure I did not ſay he might as well publiſh a Ballad, and make it Treaſon; I have a greater Duty, and a more tender Regard to his ſacred Majeſty, and the Quiet of his Kingdom and People, than to expreſs my ſelf ſo. What I then obſerv'd, as near as I can recollect, was, That there were but few Minutes to tranſact the Buſineſs at the *Green Man*; that what was done, could not amount to the publiſhing of a Declaration, when there was nothing done but a Man's reading to himſelf; I knew the whole Accuſation did turn upon that Tranſaction at the *Green Man*; and in Service to my Client, I thought it my Buſineſs to make it appear as inconſiderable as I could; and if in this I have offended your Lordſhip, or the Court, I am heartily ſorry for it, and beg their Pardon.

Mr. *Ketelbey.* If your Lordſhip pleaſe to favour me with a few Words.

I ſhall be very tender of offering to your Lordſhip any thing on this Indictment, which hath been over-ruled in any of the Caſes where I have been before concerned; whether conſpiring to levy War, unleſs War be actually levy'd is an Overt-Act of High Treaſon, was mentioned on the Trial of *Dorrell*, *Gordon*, and *Kerr*, and I then took that among other Exceptions in Arreſt of Judgment, which were not allowed; but the Statute of 13 *Eliz.* cap. 1. was at that time mentioned; and I have ſome other Matters to offer on that Head, if it is now open to me.

Ld. Ch. Juſ. Conſider a little how you treat the Court; the Objection hath been ſolemnly taken in this Court, argued and adjudged by this Court, and now you come to arraign that Judgment that was then given.

Mr. *Ketelbey,*

Mr. *Ketelbey*. I ſhall go off from that, and ſay no more upon it, ſince your Lordſhip is of Opinion that it is a Point ſettled. But, my Lord, I muſt beg Leave to take notice of what Mr. Attorney has obſerved relating to the five Overt-Acts laid in the Indictment, and ſubmit it to your Lordſhip; for I don't know that it was ever determined otherwiſe, but that if one of the Overt-Acts appears to be bad, Judgment muſt be arreſted.

Ld. Ch. Juſ. Alas! quite the contrary: I believe you will find in *Rookwood*'s Trial, which you have in your Hand, there it is ſaid, if one Overt-Act held, the Indictment is good.

Mr. *Ketelbey*. If I am not miſtaken, in Sir *John Friend*'s Caſe it was not ſo: We can't take upon us to ſay that all the Overt-Acts are wrong. Is it not like an Action in a Civil Caſe, where there are ſeveral Counts in the Declaration? If there be one wrong, that will ſtay Judgment for the whole.

Ld. Ch. Juſ. Becauſe it is an entire Declaration; and the Jury, inſtead of giving Damages on one Count, they have given it on the Count they ought not.

Mr. *Juſ. Eyre*. But if one Count be ſufficient, the Plaiiff ſhall certainly have Judgment upon Demurer.

Mr. *Ketelbey*. What I had to offer was, that if one Overt-Act is bad, the Indictment is bad; but if it be otherways, and if there be any one Overt-Act well laid, that that ſhall make the Indictment good; and your Lordſhip will maintain that Indictment: I have nothing elſe to offer.

Mr. *Att. Gen.* Say what you have a Mind to ſay.

Mr. *Ketelbey*. I did not know but I was right in what I was going to ſay; and I think it a Point too material to be eaſily given up.

Ld. Ch. Juſ. You allow one of the Overt-Acts is well laid; conſider if there is no Overt-Act but that one; muſt there not be Judgment againſt the Priſoner? Suppoſe one Overt-Act that is not good, muſt that take off the Force of that which is good?

Mr. *Ketelbey*. I ſubmit it, whether this is a Parallel Caſe in a Declaration for Work and Labour done, if there be but one Count, and that well laid, the Plaintiff ſhall recover: But if in a ſecond Count, he comes and ſays in Court, that he had done ſuch Work and Labour; that the Defendant promiſed to pay him ſuch a Sum, if either of theſe Counts are naught, it may be mov'd in Arreſt of Judgment.

Mr. *Juſ. Eyre*. If the Damages are taken generally, otherwiſe not.

Mr. *Serj. Pengelly*. You will find in *Rookwood*'s Caſe, it is there held, if the Jury found him guilty of any one Overt-Act, that it would maintain the Indictment: But what is your Objection?

Ld. Ch. Juſ. We will hear any thing that you think material to offer.

Mr. *Ketelbey*. I would not have offer'd it, if I did not think it material; and for my part, I cannot find any ſuch thing in *Rookwood*'s Trial, or any where elſe, (I beg Pardon if I have overlook'd it) that one good Overt-Act ſhould maintain the whole Indictment: I admit three or four of them to be good, as they are laid in this Indictment; the only Objection I have is, to the Uncertainty of that which relates to the publiſhing of a malicious, ſcandalous, ſeditious, and traiterous Writing, *continen' & purportan' exhortation' incitament' & præmiorum promiſſion' ad ſuadendum & excitand' ſubditos Domini Regis ad arma & guerram contra Dominum Regem*. My Lord, the Rule that my Lord Chief Juſtice *Coke* lays down in his firſt *Inſtitutes*, *f.* 303. is, That in Indictments, a Certainty to a common Intent is not ſufficient, no more than in Counts, Replications, or other Pleadings of the Plaintiff. Now whether this, as it is laid, hath the Certainty which that Rule requires, your Lordſhip will determine. In all capital Caſes, eſpecially in High Treaſon, the Indictments muſt be drawn with the utmoſt Accuracy and Certainty. The Words here are, that he *publicavit quoddam malitioſum ſeditioſum & proditorium ſcriptum*: And then ſets forth only the Subſtance of the Libel in general. Is there not the ſame Reaſon that the Words ſhould have been ſet forth in this Indictment, as in an Indictment for a Libel, that ſo the Court might judge, upon the Face of the Indictment, whether they did import Excitement and Exhortation, *levare Guerram*. I muſt own, in two or three late Caſes, the Words have not been ſet forth.

Ld. Ch. Juſ. Remember *Francia*'s Caſe.

Mr. *Ketelbey*. I am going to mention *Francia*'s, and hope I ſhall be able to account for that, as well as the others: In *Francia*'s Caſe the Indictment was, that he wrote ſeveral Letters, notifying his Intention to levy War, and requiring Aid from Abroad, without particularizing the Words of thoſe Letters, or the Subſtance of them. The Queſtion was not upon an Arreſt of Judgment; but it came on in the Courſe of the Trial, whether ſuch Evidence ſhould be allow'd. It was inſiſted upon, that there was

was a Letter mention'd, and the Subſtance of that Letter ought to have been ſet forth in the Indictment; or elſe the Letter it ſelf ought not to be read, much leſs a Copy of it enter'd in the Priſoner's Copy-Book, as Evidence againſt him: And I muſt beg Leave to rely on the ſolemn Reſolution of all your Lordſhips in Dr. *Sacheverell*'s Caſe, that the very Words ſhould be expreſly ſet forth in all Indictments whatſoever. In *Francia*'s Caſe, there was no Motion in Arreſt of Judgment; for there was no Verdict againſt him: Therefore, whether that Precedent will ſtand in our Way, ſo as to ſtop us in our preſent Objection, your Lordſhip will determine: And in the Caſe of Colonel *Sidney*, the very Words are ſet forth, the Title of the Book, and the Part charg'd to be Treaſon, in *Kelynge* 22. in *Twine*'s Caſe, he was indicted for compaſſing the Death of the King; and his Overt-Act was, the publiſhing a Book call'd, *A Treatiſe of the Execution of Juſtice*; and the Title of that Book, and the very treaſonable Part objected againſt the Priſoner, were ſet forth at large. In *Coleman*'s Indictment, two Letters were mention'd, which were declar'd to be his Hand: There was no Counſel, nor Motion made in Arreſt of Judgment. I don't remember any Caſe where they are laid ſo general, as in this Indictment, except *Francia*'s and *Coleman*'s. I ſhall only beg Leave to add, that where there is a Libel, a Book, or Letters, charg'd as the Overt-Act of that which is ſuppos'd to be Treaſon, and upon which the Offence is grounded, they ought to be ſo far ſet forth, that a Perſon may have an Opportunity to clear himſelf of the Accuſation: I don't know any Precedent to the contrary, but that of *Francia*'s Caſe, where there was not any Opportunity of evading it, he being acquitted on his Trial; and the Caſe of *Coleman*, which was before any Counſel was allow'd.

Ld. Ch Juſ. The Objection was taken then in *Francia*'s Caſe as properly, as if it had been taken in Arreſt of Judgment; for the Act of Parliament ſays, that no Evidence ſhall be admitted or given of any Overt-Act, that is not expreſly laid in the Indictment, againſt any Perſon or Perſons whatſoever. You took the Objection, and ſaid, that this Overt-Act of Treaſon is not expreſly laid in the Indictment; and therefore it ought not to be given in Evidence: You know, that that was overrul'd at the time of making the Objection, and that the Opinion of the Court was againſt you. As to what you ſay, that the Words muſt be ſet forth, it is perfectly wrong; a Man may ſet forth the Subſtance of the Words, without ſhewing the Words themſelves: That is the Way that is proper to be taken, and when it is otherwiſe, it is not ſo as it ought to be done.

Mr. *Juſ. Eyre.* It was indeed the Opinion of the Judges who were preſent at Dr. *Sacheverell*'s Trial, that the particular Words ſuppoſed to be criminal ought to be expreſly ſpecified in every Indictment or Information for any Miſdemeanor by writing or ſpeaking; and ſince it is urg'd as an Authority to conclude our Judgments, I can't forbear ſaying, that it was a great Surprize to *Weſtminſter-Hall*, and particularly to thoſe who attended this Court, to hear that any ſuch Opinion had been given; for it had never been laid down in any of our Books as the Rule of Law or Practice, that the particular Words ſuppoſed to be criminal, ought to be ſpecified in the Indictment or Information; and we had learn'd from my Lord Chief Juſtice *Holt*, that a Libel might be deſcribed either by the Senſe and Subſtance, or by the particular Words, and that an Indictment or Information in either of theſe Forms would be good. If you look into the Books of Entries you will find ſeveral Inſtances where Slanders and Perjuries are charged in *Latin*, as falſe and ſcandalous Aſſertions, and not in the Words as ſpoken. And in *Staley*'s * Caſe, who was indicted for treaſonable Words upon the Stat. 13 *Car.* II. it was charged in the Indictment, that he ſpeaking of the King, had traiterouſly declared, *quod ipſe prædictus* Staley *ipſum Dominum Regem interficeret*; and the Fact was, that *Staley* in Converſation had ſpoke Words to this Effect in *French*, which were proved by two Witneſſes; and this Evidence was thought ſufficient to convict him of High Treaſon; and yet the particular Words ſuppoſed and adjudged to be criminal, were not ſpecified in the Indictment; and there was an Information for Perjury †, in which all the great Counſel of *England* were concerned on one Side or other, which was tried at Bar in my Lord Chief Juſtice *Holt*'s Time, and the Offence was charged in the ſame Manner; for the Subſtance of what the Defendant had ſworn was ſet forth in *Latin*, and the Evidence which he gave in *Engliſh* being proved to be falſe, he was convicted of the Perjury without any Objection; and yet the particular *Engliſh* Words in which he gave his Evidence were not expreſly ſpecified in the Information; and I don't find that the ſpecifying of the particular Words was ever ſaid or ſuggeſted to be neceſſary, till this ſudden Opinion was given; and therefore as I never thought it right, I can't hear it urg'd as an Authority, without offering my

* *Mich.* 30 Car. II. B. R.

† Dom. Rex. v. *Griepe, Trin.* 8 Will.

Reaſons

Reaſons to the contrary, and acknowledging that I have been long in a great Miſtake, if there be any one Reſolution in the Books to ſupport it.

Mr. *Juſt. Powys.* In the Caſe of *Francia* it was inſiſted on in order to ſtop the Trial; the main of the Objection was, that they ought not to produce Evidence of the Letters, becauſe thoſe Letters were not expreſly ſet forth in the Indictment, and that very Objection was made in order to ſtop the Trial. What was ſaid there in Caſes of Libels is intended when ſet forth *in hæc verba*, and not in *Latin*, the more common Way: But it is another thing where it is an Overt-Act of the Imagination of a Man's Heart in Treaſon, it is ſufficient to ſet forth the Subſtance of them; therefore it was ſo fully ſettled in *Francia*'s Caſe, that I thought it would be never mentioned again; the Point was argued, the Objections were made and over-ruled, and it was the very Point on which the Trial proceeded.

Mr. *Att. Gen.* In my Lord *Preſton*'s Caſe there were ſeveral Notes, Memorandums and Writings, that were the very Overt-Acts of the Treaſon, yet they were not particularly ſet forth in the Indictment.

Mr. *Serj. Pengelly.* There it was alledg'd, that the Lord *Preſton* prepared and compoſed ſeveral Writings, ſeveral traiterous Notes and Memorandums, for the giving Inſtruction and Information for the *French* King how to invade *England.* I deſire to put Mr. *Ketelbey* this Caſe: Suppoſe any one had proclaimed the Pretender at *Charing Croſs*, or elſewhere, and had read his Declaration, exciting the People to revolt and to come in to him, and promiſing them Rewards; and then the Declaration had been carried off, or ſo diſpoſed of, that it could not be recovered and produced in Evidence; I would be glad to know, whether that Perſon might not be indicted for Treaſon, without ſetting forth the particular Words which he read out of ſuch Declaration; or whether he ſhould eſcape Puniſhmeet for want of being able to ſet out the particular Words.

Mr. *Ketelbey.* The reading of the Paper in that Caſe would be ſufficient.

Ld Ch. Juſ. Have you done, or have you any thing further to offer for the Priſoner.

Cl. of the Cr. Chriſtopher Layer, hold up your Hand. You have been Indicted of High Treaſon, *&c.*

Priſ. I have nothing more to ſay now, becauſe my Counſel have given it up. But after your Lordſhip hath paſſed Sentence upon me, I hope and deſire, for the Sake of other People more than my ſelf, thoſe that I have had very great Dealings and Correſpondence with, particularly my Lord *Londonderry*, and ſeveral others, that I would do Juſtice to; that your Lordſhip would give me a reaſonable Time to make up their Accounts; and when that is done, I hope your Lordſhip will give me ſtill a further Time to make up that great Account which I have in another Place: When this is done, if his Majeſty doth not think fit graciouſly to continue me in this World, I will dare to dye like a Gentleman and a Chriſtian, not doubting but that I ſhall meet with a double Portion of Mercy and Juſtice in the next World, though 'tis denied me in this.

Ld. Ch. Juſ. Chriſtopher Layer, You have been Indicted, and after a long Examination and fair Tryal, have been convicted of High Treaſon, in compaſſing and imagining the Death of the King.

You have had all the Indulgence and Advantage that the Law would allow you. You have had Counſel aſſigned you of your own chuſing, to adviſe you preparatory to your Tryal, and to aſſiſt you in making your Defence at yout Tryal.

Theſe Counſel have been permitted to ſay whatever they thought proper for your Service; and I heartily wiſh that I could ſay that they had not exceeded, that they had not taken a greater Liberty than they ought to have done: But however that was, the Court thought fit to permit it in them, that they might not be diſcouraged in offering any thing that was proper for your Defence; we did not cenſure it then, on this Conſideration.

The Jury that have found you guilty, are ſuch as may be juſtly ſaid you yourſelf approved of; for, though the Law gives you a Liberty of challenging five and thirty, you challenged but four and thirty; ſo you allowed the reſt to be an indifferent Jury, to paſs between the King and you as to your Life and Death.

The Evidence on which you have been convicted, is the cleareſt and plaineſt that ever I heard: Your perſonal Conferences with the Pretender at *Rome*; your conſtant Correſpondence with him and his Agents afterwards; the Scheme you had formed for the Executing this Treaſon; your Confeſſion of the greateſt part of it before the Lords of the Council; and at laſt your Flight when in the hands of Juſtice, out of a Window two pair of Stairs, and the Endeavours you uſed when retaken to corrupt and prevail with thoſe that took you, by Rewards, to let you go off; theſe

are

are Matters ſo very clear and plain, and did concur ſo exactly with the Evidence of the Witneſſes, that it did not reſt on their Credit; the only Queſtion was, whether the Jury did believe what you yourſelf had declared on your Examination before the Lords of the Council, and by the Scheme that was found in your Cuſtody.

This being the Nature of the Evidence, I muſt, according to what is uſual, put you in mind of the horrid Wickedneſs you have been found guilty of.

The firſt Matter projected to be done, was to ſeize the Tower of *London*, to ſet a Guard at the *Exchange* and other Places; to ſeize the Bank, and take from thence what Money you had occaſion for; by which the whole City of *London*, and in conſequence the whole Nation, would inevitably have been involved in Blood and Confuſion: This was to have been the firſt Fruits of this projected Scheme.

The next Step to be taken by this execrable Scheme, was to ſeize the ſacred Perſon of the King: a King, who during the whole Courſe of his Reign hath been the moſt religious Obſerver of our Laws, the moſt careful Preſerver and Protector of all our Civil and Religious Rights, and the moſt merciful Prince that ever ſat on the Throne of theſe Kingdoms; yet this, this moſt excellent Prince, was to be ſeized and made a Sacrifice to Popery and arbitrary Power.

The next Step to be taken, was to ſeize the Prince; and when that was done, no body can doubt but the young Prince and Princeſſes muſt and ſhould have followed the Fate of their Father: So that the Project muſt and would have ended in the Deſtruction of all the Royal Family on this Side the Water; and when that was done, 'twas thought 'twould be an eaſy Matter to ſet the Pretender on the Throne.

This being done, the King and the Royal Family deſtroy'd, and the Pretender advanced to the Throne, what the Conſequence of that muſt and would have been, is obvious to every body; it muſt have ended in the entire Deſtruction and Diſſolution of our moſt happy Eſtabliſhment and Conſtitution; the happieſt, I think, that ever any People enjoyed: it muſt have ended in the Deſtruction of our Laws, our Liberties, our Religion, and the Church of *England* as by Law eſtabliſhed; and we muſt have become from the moſt happy, the moſt miſerable People on Earth.

Theſe horrid and execrable Deſigns are ſo very heinous in themſelves, that they hardly will admit of any Circumſtance of Aggravation: But I muſt ſay, I can't avoid ſaying, that there are Circumſtances with reſpect to you, that make them more heinous if poſſible. You were bred up to the Law, and you muſt be ſuppoſed to know the Excellency of our happy Conſtituion and Government, and the Laws which you profeſſed; which makes your Crime much the greater.

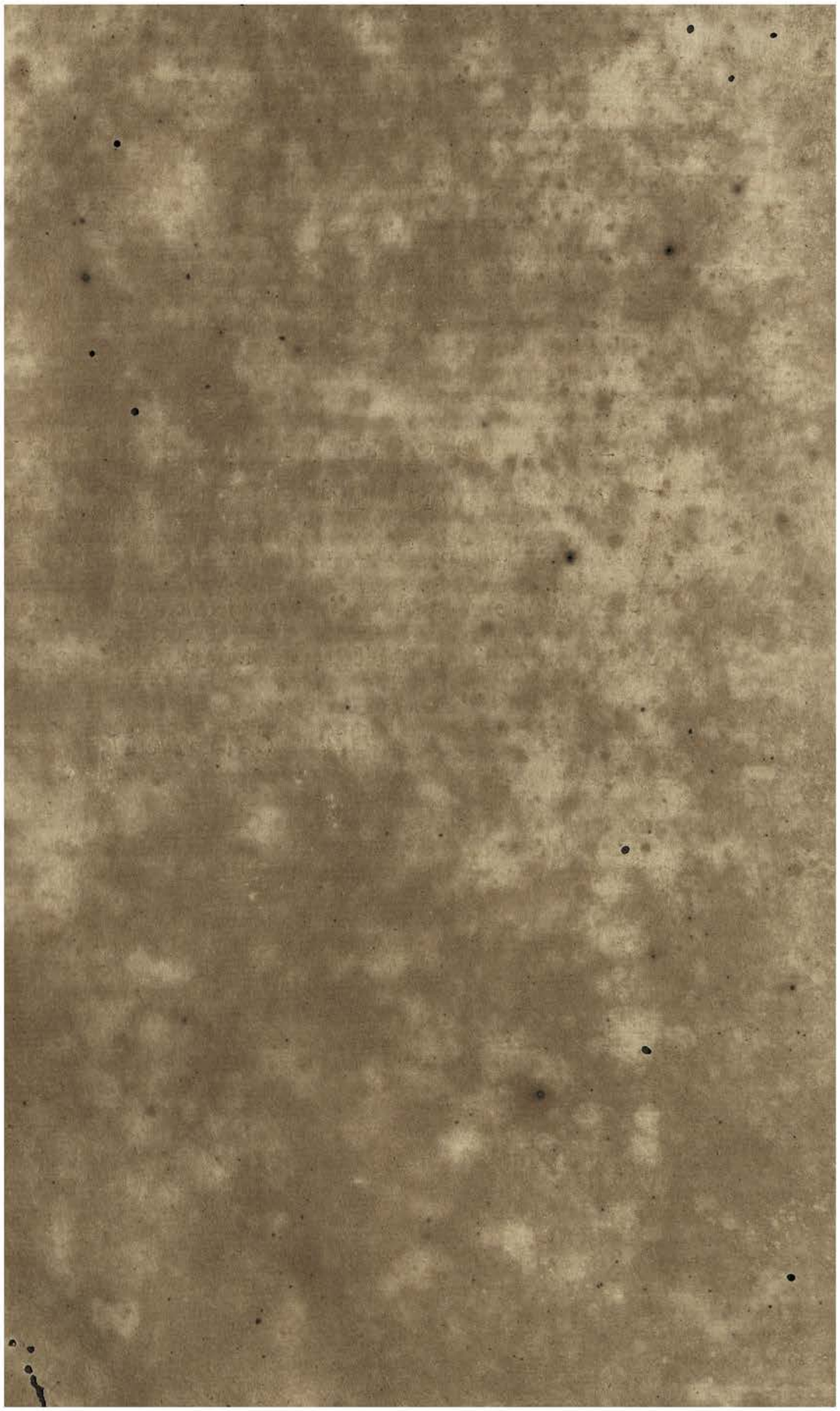
Another Matter, which is a great Aggravation of your Offence, is, that you were, or at leaſt profeſſed yourſelf, a Proteſtant, and a Member of the Church of *England*, whilſt you engaged yourſelf in Meaſures which muſt inevitably have deſtroyed that Church which you profeſs yourſelf a Member of.

Theſe are the Treaſons which you are convicted of; and being ſo, the Law adjudges you not fit to live; and the Judgment of the Law is, and it is conſidered by the Court, that

You, Chriſtopher Layer, *be led to the Place from whence you came, and from thence you are to be drawn to the Place of Execution, and there you are to be hanged by the Neck, but not till you are dead, but you are to be cut down alive, and your Bowels to be taken out, and burnt before your Face; your Head is to be ſever'd from your Body, and your Body to be divided into four Quarters; and that your Head and Quarters be diſpoſed of where His Majeſty ſhall think fit.*

Then the Priſoner was carried back to the Tower of *London*.

FINIS.



BY Vertue of an Order of the HOUSE *of* COMMONS, I do appoint *Jacob Tonſon*, *Bernard Lintot*, and *William Taylor* to Print this *Report*, with the *Appendixes*; And that no other Perſon preſume to Print the ſame.

SP. COMPTON, Speaker.

A REPORT

FROM THE

COMMITTEE

Appointed by Order of the

Houſe of Commons

TO EXAMINE

CHRISTOPHER LAYER, and Others;

And to whom ſeveral PAPERS and EXAMINATIONS laid before the Houſe, relating to the Conſpiracy mentioned in His MAJESTY'S SPEECH, at the Opening of this Parliament, to be carrying on againſt his Perſon and Government, were referred.

Reported on the Firſt of March, 1722,

By the RIGHT HONOURABLE

WILLIAM PULTENEY, Eſq;

CHAIRMAN *of the ſaid* COMMITTEE.

Together with the APPENDIXES, containing Examinations, Letters, and other Papers referred to in the ſaid Report.

Publiſh'd by Order of the HOUSE *of* COMMONS.

LONDON:

Printed for *Jacob Tonſon*, *Bernard Lintot*, and *William Taylor*.

M DCC XXII.

THE REPORT FROM THE COMMITTEE

Appointed to examine Chriſtopher Layer, &c.

THE Committee appointed to examine *Chriſtopher Layer* and others, in relation to the Conſpiracy mentioned in His Majeſty's Speech, to be carrying on againſt his Perſon and Government, having peruſed the ſeveral Papers and Examinations referred to them, and having gone through the Examination of thoſe Perſons, have agreed on the following Report.

In ſuch various and ſo long Examinations, and in ſo extenſive an Enquiry, your Committee are in hopes that they need not be ſtrictly ty'd to the Method and Order in which they were appointed, but may for the Eaſe of the Houſe range the ſeveral Matters occurring to them, as near as they can, in the Order of Time in which they were tranſacted, or as they beſt ſerve by their mutual Connexion to illuſtrate each other, without adding any Obſervations of their own, but ſuch as naturally ariſe from comparing the ſeveral Papers and Examinations together, and ſuch as are neceſſary to help the Houſe, the more eaſily to perceive the Contradictions and Inconſiſtencies of the Confeſſions made by the Priſoners, as well as the Confirmations and Coincidence of the Facts enquir'd into.

The Committee obſerve in general, that a Deſign has long been carrying on by Perſons of Figure and Diſtinction at home, in Conjunction with Traitors abroad, for placing the Pretender on the Throne of theſe Kingdoms. That various Methods have been attempted, and various Times fixed for putting this Deſign in Execution. That the firſt Intention was to have procured a regular Body of Foreign Forces to invade theſe Kingdoms at the Time of the late Elections; but that the Conſpirators being diſappointed in this Expectation, next reſolved to make an Attempt at the Time that it was generally believed His Majeſty intended to go to *Hannover*, by the Help of ſuch Officers and Soldiers as could paſs into *England* unobſerved from abroad, under the Command of the late Duke of *Ormond*, who was to have landed in the River with a great Quantity of Arms, provided in *Spain* for that Purpoſe, at which time the *Tower* was likewiſe to have been ſeized, and the City of *London* to have been made a Place of Arms; but this Deſign being alſo diſappointed, by the Diſcoveries made in *England*, and his Majeſty's putting off his Journey, by the Encampment of his Forces at home, as well as the ſending for thoſe from *Ireland*, and by the readineſs of his Majeſty's good Allies the *States-General* to aſſiſt him in caſe of Need, by the Orders given in *Spain* that the late Duke of *Ormond* ſhould not be ſuffer'd to embark, and the like Orders iſſu'd in *France* that he ſhould not be ſuffer'd to paſs through that Kingdom, the Conſpirators found themſelves under a Neceſſity of deferring their Enterprize till the breaking up of the Camp; during which In-

terval, they were labouring by their Agents and Emiſſaries to corrupt and ſeduce the Officers and Soldiers of his Majeſty's Army, and depended ſo much on this Defection, as to entertain hopes of placing the Pretender on the Throne, though they ſhould obtain no Aſſiſtance from abroad, which nevertheleſs they ſtill continu'd to ſollicit for.

The Truth and Reality of theſe wicked Deſigns, your Committee are of Opinion will appear confirmed to the Houſe by concurrent and unqueſtionable Advices, from almoſt all parts of *Europe*, ſent by Perſons who appear to have had no Communication with each other; which Advices have again been verifyed and ſupported by ſeveral Diſcoveries made at Home, by the Informations and Confeſſions of ſome of the Perſons concerned, as well as by a long and regular Series of Correſpondence, which the Conſpirators have furniſhed the Government with againſt themſelves, the ſeveral Branches of which appear to the Committee connected with one another, and all concurring in one continued Deſign of ſubverting our preſent happy Eſtabliſhment, and involving theſe Kingdoms in Blood and Confuſion.

‡ The Appendix conſiſts of Twelve Sections, marked A. AA. B. BB. C. D. E. F. G. H. I. K.

The ſeveral Examinations, Letters and other Papers are all contained in an ‡ Appendix to this Report, and as they are all ſeverally Numbred, to the ſeveral Paragraphs which are quoted from them have References to thoſe Numbers, that they may the eaſier be turn'd to upon Occaſion, and be ſupported by the Authorities from whence they are taken.

That the firſt Deſign was to have been executed during the Elections, and to have been ſupported by Foreign Forces, is collected from the following Circumſtances.

* E. 10. *Philip Neynoe*, Clerk (who was drowned in attempting to make his Eſcape from the Meſſengers) declared upon his * Examination before ſome of the Lords of the Council, 'That he had been employed by *George Kelly*, and 'one *Watſon*, whom he took to be the late Earl Mariſhal, and who 'was in *England* laſt Spring, to draw up three ſeveral Memorials to the 'Regent of *France*, to ſollicit him to ſend Forces to the Aſſiſtance of 'the Conſpirators. That the laſt of theſe Memorials was drawn up in *December* 1721, and contained a Demand of Five Thouſand Men, to be ſent 'over by the Regent to invade theſe Kingdoms.

† A. 2. This is confirmed by unqueſtionable † Advices from *France*, the 19th of *April* laſt, in which it is expreſly affirmed, 'That repeated Application 'had been made to the Regent for ſome time paſt, to furniſh only a Body of Three Thouſand Men, by the help of which the Conſpirators 'made no doubt but to be able to place the Pretender on the Throne.

* B. 11. *Layer* at his * Examination before a Committee of Lords of the Council, confeſs'd, 'That being in Diſcourſe with Lord *Orrery*, ſoon after his firſt Acquaintance with him, (which was before the Encampment) 'Lord *Orrery* ſaid, Nothing could relieve the Nation, but a Reſtoration; 'and that he would be glad if he could contribute to bring it about; that 'it muſt be done by Foreign Forces, and could be done no other way; 'that he often ask'd Lord *Orrery*, what Methods they had taken to procure them? That Lord *Orrery* ſaid, they had Friends abroad *that had made* '*Application to the Regent for Aſſiſtance to bring about a Revolution*; but he 'does not know whom his Lordſhip meant; General *Dillon* might be his 'Correſpondent, for ought he knew; that Lord *Orrery* likewiſe told him, 'the Regent might be brought to wink at any Thing, but was ſo perfidious that he was not to be truſted, and that the *French* had made a 'Tool of the Pretender.

‖ B. 8. 10. ‡ B. 38. *Layer* repeated the ſame in part at two other ‖ Examinations before his Tryal, and has ſince confirmed to your Committee, upon his ‡ Examination at the Tower, 'That Lord *Orrery* declared himſelf conſtantly of Opinion, 'that nothing could be done to any Purpoſe in the Pretender's Favour, 'without Foreign Forces.

† AA. 4. * AA. 5. About the latter end of *April*, a † Letter was intercepted here coming from *Spain*, encloſing the * Copy of one from O—— to L——, which will

will be ſhewn, in the Sequel of this Report, to have been from the late Duke of *Ormond*, in which *Ormond* ſays, 'Pray tell Mrs. *Chaumont*, 'that ſince the Parliament is dead and gone, I think it is a good Time 'to make an Effort, when the Elector is gone to *Hannover*.' It will appear from the Sequel of this Report, that by Mrs. *Chaumont* is probably meant the Pretender.

On the 23d of *April* another *Letter was intercepted, ſign'd 1387, and directed to Mr. *Jackſon*, which your Committee have good Reaſon to believe was from the Biſhop of *Rocheſter*, to the Pretender, as will be ſhewn in the following Part of this Report. In this Letter he ſays, 'Notwith-'ſtanding *this Opportunity* is elapſed, I agree with you another may offer 'before the End of the Year, tho' not perhaps every way ſo favourable. This Letter was writ on the 20th of *April*, when moſt of the Elections were over, and conſequently that Opportunity was elapſed. * D. 12.

That an Inſurrection was thought of at the time of the Elections, is farther confirmed from the following Particulars; *Layer* † confeſs'd before the Lords, 'That *Green* the Gunſmith being in Company with Lord '*North* after Dinner, and talking of Five Thouſand Arms, and Seven 'Thouſand Arms, that were ready, ſaid, *When the* Weſtminſter *Mobb were* '*up, if they had had Arms!* Upon which Lord *North* interrupted him, and 'ſaid, Don't talk, you are a Citizen, you know there are no Arms; but 'that the Man inſiſted there were Five Thouſand Arms ready in the City.' † B. 11.

Neynoe ‡ declar'd 'that *Tho. Carte*, Clerk, made two Expeditions in the 'Spring (during the Elections) one into *Cornwall*, and another into the 'Counties of *Warwick*, *Nottingham*, *Derby* and *Stafford*; and that upon '*Neynoe*'s blaming the riotous Conduct at the *Coventry* Election, *Carte* re-'plied, Hang the Election, you never ſaw Fellows of ſuch Mettle, ſo well trained, ſo fit for buſineſs. ‡ E. 10.

Among Mr. *Dennys Kelly*'s Papers was ſeized an exact † Liſt of the Quarters of all His Majeſty's Forces in *Great Britain*, about the time that they were drawn out of moſt of the great Towns and Boroughs, on account of the Elections. † F. 9.

From all theſe Circumſtances the Committee ſee Reaſon to conclude, that the firſt Deſign was to have been executed with the Aſſiſtance of Foreign Forces, at the time of the Elections; that the Pretender, the late Duke of *Ormond*, Lord *Orrery*, and the Biſhop of *Rocheſter*, were of this Opinion; that Memorials were drawn up here, to be preſented to the Regent for this Purpoſe, and that thoſe Memorials were actually preſented, or at leaſt Application made to the Regent in conſequence of them, by directions from Perſons in *England*; and that ſuch Diſpoſitions had been made for this Enterpriſe at that time, as broke out into Riots at ſome of the Elections; which muſt be allowed to have been no unfavourable Juncture for ſuch an Attempt, conſidering the Diſcontents occaſioned by the late *South Sea* Scheme, which the Conſpirators have all along flatter'd themſelves they ſhould be able to improve into a Spirit of Rebellion, and the Liberties uſually taken at ſuch a Seaſon, when all the Freeholders of *England* are neceſſarily and legally aſſembled together, and when the whole Nation is too apt to be in a Ferment, even in the quieteſt Times.

This Deſign failing, on Account (as 'tis reaſonable to believe) of the Conſpirators not being able to obtain the Forces they ſollicited from abroad, and of their being themſelves divided in Opinion as to the Time and Manner of Execution, their next Endeavour was to attempt an Inſurrection at the Time when they ſuppoſed His Majeſty would be going to *Hannover*.

Of the Reality of this Deſign your Committee have found ſuch evident and concurrent Teſtimonies, that they think ſtronger could not reaſonably be expected, in an Affair, where it was ſo much the Intereſt of the Conſpirators to act with the utmoſt Caution and Secrecy.

It

* AA. 5. It has already been obſerved, that the late Duke of *Ormond* * thought the Time of the King's going for *Germany* a favourable Opportunity for
† D. 12. making an Effort, and that the Perſon who ſigns 1378, † ſays, 'Notwithſtanding this Opportunity is elapſed, I agree with you another may offer before the End of the Year, though not perhaps every way ſo favourable.

‡ B. 10-11. *Layer* confeſs'd to the Lords at ‡ two ſeveral Examinations previous to
¶ B. 38. his Tryal, and has ſince ¶ confirmed to your Committee 'That he made Application to Lord *Orrery* to ſtand God-father to his Child for the Pretender, intending that this Mark of Kindneſs from the Pretender ſhould ſerve as a Credential to Lord *Orrery* to induce him to converſe freely with him, in relation to the Pretender's Affairs: That their Acquaintance having begun in this manner, § Lord *Orrery* ſent to him to en-
§ B. 11. quire into the Pretender's Character and Qualifications, and asked him ſeveral Times whether he had any Recommendation from the Pretender to any Perſon; that upon his anſwering No, his Lordſhip told him, that he ſeem'd to be an honeſt Man, and People of his Integrity ſhould be always welcome to him, whether they had any Credentials or no; that he, *Layer*, then gave his Lordſhip an Account of what had paſſed between the Pretender and him during his Stay at *Rome*, and asked his Lordſhip what Hopes there were? To which his Lordſhip anſwered, that there were Hopes, for all the Nation were generally for the Pretender, except ſuch as had Places, or Money due to them from the Government; that Lord *Orrery* farther told him, that Lord *North*, Sir *Harry Goring*, Lord *Strafford* and others were going to do a raſh Thing in favour of the Pretender, which he, Lord *Orrery*, was ſorry for, becauſe it would prove abortive, and hinder its ſucceeding another Time; that *Layer* asked him, who was to have the Command, and Lord *Orrery* told him, he believ'd Lord *North* and *Grey* was to have the Command, and that the ſaid Lord had a Commiſſion from the Pretender; that the Lord *Orrery* called this Deſign raſh, becauſe not duly concerted, nor ſupported by Foreign Forces, without which, he ſaid, he thought they muſt be more than Madmen to hope to do any thing to effect, for the Pretender's Service. That he, *Layer*, the next time he ſaw Lord *North* and *Grey*, which was before the Encampment of the Troops, acquainted him with what Lord *Orrery* had ſaid about the Raſhneſs of the Deſign; that Lord *North* and *Grey* reply'd, Lord *Orrery* was a timorous Fellow, and was always making Difficulties, and Schemes out of his own Brain; that he knew nothing, nor ſhould know; but that it was his, Lord *North*'s Opinion, the Pretender might be reſtored by the People of *England*, without the Aſſiſtance of any Foreign Force. That he, *Layer*, talked to Lord *North* and *Grey* of his Lordſhip's being General, but Lord *North* ſaid, he was not popular enough, that the Duke of *Ormond* would be fit for it, and if they had him here, his Lordſhip believed moſt of the Soldiers would join him; that he, *Layer*, continuing to preſs Lord *North* and *Grey* on this head, by telling him that he was fitter for a General, and was popular, the ſaid Lord anſwered No, the Duke of *Ormond* was the Man, he was the Soldiers Darling. That he, *Layer*, often talked of this Affair to the Lord *North*, being induced ſo to do, by the Impatience he obſerved in him, and in Lord *Orrery*, that ſomething ſhould be done.

* B. 6. *Matthew Plunket*, Serjeant of Invalids, has * depoſed upon Oath, 'that *Layer* told him (in *July* laſt) that the late Duke of *Ormond* would come in a ſingle Ship with ſome Officers, and that it had been done long ago, if the *French* Ambaſſador had not been told of it, who told it again to the King.

† AA. † It appears to your Committee from ſeveral Depoſitions on Oath, as well as from Informations and written Intelligence, that in conſequence of this Deſign of bringing over the late Duke of *Ormond*, Captain *Charles Halſtead*, a *Lancaſhire* Man (who was concerned in the Inſurrection in and-

ed at *Oxford* in the Year 1715) ſet Sail from the River for *Bilboa*, about the 12th Day of *March* 17$\frac{1}{2}$, on Board the Ship *Phineas* of *Briſtol*, *William Arnold* Maſter, with a Proviſion of Arms and Powder on Board, which one of the Sailors on his † Examination declared, 'He apprehends to have † AA. 15
'been greater than was neceſſary for an ordinary Trading Voyage. § That § AA. 13
'the ſaid Ship was hired at One Hundred Pounds Freight *per* Month,
'Two hundred being paid in Advance (as *Halſtead* himſelf owned) and had
'no Goods nor any Paſſanger on Board, except the ſaid *Halſtead* who
'went by the Name of *Nowell*, and was known to the Maſter and Sailors
'by that Name only, during the Voyage to *Spain*. ‡ That the ſaid Ship ‡ AA. 11.
'was clear'd at the Cuſtom-Houſe in Ballaſt for *Lisbon*; but that when
'they came into the Bay of *Biſcay*, the Maſter, who had Orders to fol-
'low *Nowell*'s Directions, * gave private Inſtructions to the Pilot to * AA. 9.
'Steer to *Bilboa*; that they arrived there on the 25th of *March*, *O. S.*
'and that *Halſtead* went on Shore, and lay that Night at Mr. *Brown*'s
'an *Iriſh* Merchant, and the next Day went forward towards *Madrid*, be-
'ing furniſhed with Horſes by the ſaid *Brown*, on which Journey he was
'abſent about a Fortnight; that during his Abſence, a † Report was cur- † AA. 9.
'rent all over the Town of *Bilboa*, and particularly among the Convents,
'that the ſaid Ship was come to fetch over the late Duke of *Ormond*;'
and *Thomas Carter*, one of the Sailors of the ſaid Ship, who was employed
by *Halſtead* to wait on him as a Servant, has * depoſed upon Oath, 'That * AA. 14
'three Days after the ſaid *Nowell*'s Return, the Deponent heard him
'propoſe to the above-named Captain *Arnold*, to carry the late Duke of
'*Ormond* and Four other Paſſengers to *England*; which the ſaid Captain
'*Arnold* refuſing to do, the ſaid *Nowell* inſiſted, ſaying the Ship was his
'ſo long as he paid the Hire of her, and the Wages and Victualling, and
'they had high Words upon it. *Carter* farther depoſed, that *Halſtead* re-
'ceived a Letter directed to Colonel *Nowell Butler*, which was the Name
'the ſaid *Nowell* went by, when he was in *Spain*. That, when the Ship
'was releaſed, they ply'd off and on about four Hours off St. *Andero*,
'expecting ſome Body to come off in a Boat, but no Body coming, and
'Night drawing on, they made the beſt of their way to *England*, and ar-
'rived in the *Downs* the beginning of *July* laſt.' *Alliſon* who came over
to *England* a Paſſenger in the ſaid Ship, has ‡ depoſed upon Oath, 'that ‡ AA. 16.
'he left *Madrid* on the 4th of *June*, *N. S.* and that ſome time before he
'came away, the late Duke of *Ormond*, who had reſided a conſiderable
'time at *Madrid*, had ſent away his Horſes and Equipage from thence, and
'put his Servants on Board Wages, and that it was reported he was to
'go to *Ventoſilla*. That he, *Alliſon*, upon his coming to *Bilboa*, found the
'Ship *Phineas* bound for *England*, but ſtopped; that he agreed to take
'his Paſſage on Board her, and going to the Corregidor of *Bilboa* for a
'Paſs, he found there Mr. *Brown* a Merchant, and one who went by the
'Name of *Nowell*; that *Brown* asking the Corregidor why the Ship was
'ſtopped, he ſaid, it was not the Ship, but *Nowell*'s Perſon, that was de-
'tained, by Orders from *Madrid*; that he, *Alliſon*, heard a Report at *Bil-*
'*boa*, that the late Duke of *Ormond* was on the Coaſt in Diſguiſe, and that
'*Nowell* had been at *Madrid*, and come back again in Fifteen Days, the
'Expedition of which Journey, and the Ship's coming in Ballaſt, had rai-
'ſed a Suſpicion in *Bilboa*, that *Nowell* came over to the late Duke of *Or-*
'*mond*, on account of the Conſpiracy. The Sailors § obſerved, that dur- § AA. 8.
'ing *Nowell*'s Stay at *Bilboa*, Brigadier *Campbell* (a Perſon concerned in the 9. 11.
'*Preſton* Rebellion) was frequently on Board with him, but did not care to
'own his Name. The ſame Particulars are confirmed by * Letters from Sir * A. 38.
Anthony Weſcomb, who was ſent to *Spain* to gain Intelligence, with ſeveral † A. 34---
other † Circumſtances relating to Ships, Arms and Recruits, provided for 40. 43.
the Pretender's Service in *Spain*. A. 26. 27. 28.

* A 15. During these Transactions, * Colonel *Stanhope*, His Majesty's Ambassador at *Madrid*, who does not appear to have known any thing of this Ship's being come to *Bilboa*, having receiv'd Intelligence from other Hands, that the Duke of *Ormond* was preparing to set out for *England* with some *Irish* Officers, in order to put himself at the Head of the Rebels, obtain'd Orders from the Court of *Madrid*, to hinder the late Duke of *Ormond's* Embarkation, as will appear more fully in the remaining Part of this Report.

‡ AA. 8. 9. 11. 16. In consequence of these Orders, the King of *Spain*'s Officers ‡ came on Board the Ship, and laid an Embargo upon her for about a Fortnight, till *Halstead* finding himself disappointed of his Design, agreed that Part of a Cargo of Wool and Iron should be put on Board the said Ship by *Brown* and *Slinger*, and then returned to *England* with one *Maxwell*, whom the Sailors understood to be a Relation of the late Lord *Marr's*, and two other Passengers, and arriv'd in the River about the 7th or 8th of *July*.

* AA. 9.

|| AA. 4. About the Beginning of *May* a || Letter was intercepted here, coming from *Spain*, directed to Monsieur *Dumville Procureur*, and enclosed under Cover to one *Wilmore* at Mr. *Stokoe*'s Bookseller near *Charing-Cross*; who is meant by the Name of *Dumville*, the Committee have not been able to discover.

* AA. 5. In this Letter was enclos'd the * Copy of a Letter, which the Committee have Reason to believe was from the late Duke of *Ormond*, to some Person abroad, the initial Letter of whose Name is discovered by the Decipherers to be *L*.

The Letter to *Dumville*, as well as the Copy of the late Duke of *Ormond*'s Letter, was writ partly in Cypher, and among the Words out of Cypher several fictitious Names were made use of, which the Committee observe is the Case also in several others of the intercepted Letters referr'd to them.

It was reasonable to expect, that in managing Correspondences of so hazardous a Nature, all sort of Art and Industry should be used, and all the Help of Cyphers and Jargon called in, to disguise the real Designs, and to conceal the true Names of the Persons concerned, in order to their avoiding the Danger of legal Conviction: But your Committee likewise observe, that several of these Disguises are so gross and obvious, that they only serve to betray themselves; others of them are explained by the Skill of different Decypherers, agreeing in the same Explication, which Explication is again confirmed by Facts unknown to those Persons at the time of the Decyphering. Others are explained by Cyphers and Lists of fictitious Names, seized on the Conspirators themselves, as well as by comparing the several Parts of their Correspondence together; and others again by direct Informations upon Oath. And, as the Degrees of Evidence, in a Search of this Nature, must be various, the Committee have taken all the Care they can, to distinguish what appears to them fully proved, from what is supported by strong and probable Conjectures only.

* AA. 4. In this * Letter to *Dumville*, dated the 27th of *April* 1722, (*N. S.*) mention is made of its being publickly known in *Spain*, by Letters from *Bilboa* and other Parts, 'that a Ship came to *Bilboa*, with an Express to *Ormond*, in order to bring *Ormond* to *England*; that the said Express went 'to the Place where *Ormond* was; that this had made so much Noise, that 'it was necessary to send to *England* with all possible Dispatch, that a Ship's 'coming *with Ballast only* gave Occasion to those Reports, and that in order to stifle them it was necessary to put in the Ship Goods for *England*; 'that this would be a considerable Expence to *Tom*, who hopes that Friends 'will consider it, and send him if possible a greater Supply than the Five 'Thousand Pounds that he wrote for in his of the 6th and 20th of *April*; 'that the Bills must be sent directly to *B*——, and may be bought at the 'Exchange of *London*.

The

The Committee are of Opinion, that by *B* is meant *Brown* the *Iriſh* Merchant at *Bilboa*, becauſe the * Cargo was but on Board by the ſaid *Brown* and *Slinger*; and it appears by ſubſequent ‡ Letters that this *Brown* had twelve thouſand Arms in his Cuſtody, for the Service of the late Duke of *Ormond*. It is alſo proved ‖ by the Sailors, that *Halſtead* was frequently in Company with this *Brown* and his Nephews, and lay ſometimes at his Houſe.

* AA. 11.
‡ A. 15. 35.
‖ AA. 9. 14.

Who is meant by *Tom* in the ſaid Letter, the Committee will not take upon them to determine, but they believe it will appear probable to the Houſe, from the Connexion and other Circumſtances, that it muſt mean the late Duke of *Ormond*.

The Perſon that writes this * Letter to *Dumville*, adds, 'That ſince 'Mrs. *Chaumont* cannot meet *Ormond* at any Place on the Road, it is abſo-'lutely neceſſary that *Ormond* ſhould have as good a Preparation of Arms 'as can be had there, and in order to make it, he will want more Money 'from Friends.

* AA. 4.

The ſame Perſon ſays, that he had that Day received a Letter, importing, 'That *M*—— could get more Arms if he had more Money.' The Committee are of Opinion, that by *M*—— is meant *Morgan*, who is mentioned in ſeveral ‡ Letters from *Spain* as Intendant of the Pretender's Ships at *Cadiz*, and active in procuring Officers and Arms; which Letters are confirmed by the Seizure of the Ship *Revolution* at *Genoa*, of which it appears by Captain *Scot*'s ‖ Letter from *Genoa* that *Morgan* had the chief Care, going by the Name of *Walton*; which is again confirmed by a * Letter from Sir *Anthony Weſcomb* at *Bilboa*.

‡ A. 26. 34. 36. 40.
‖ A. 44.
* A. 40.

The Perſon that ‡ writes to *Dumville*, farther adds, 'That *Ormond* hopes '*Onſlow* and *Hawley* will ſend a Part of the Money they have raiſed di-'rectly to *Ormond*, for *Ormond*, upon the Hopes of it, has ſent Credit to '*M*——; he deſires *Dumville* to mind this, and not to loſe a Moment.

‡ AA. 4.

Who are meant by *Onſlow* and *Hawley*, the Committee cannot determine; but they are inclined to believe, that they are the ſame Perſons, who in another ‡ Letter, encloſed to *Wilmore* ſoon after, and writ in the ſame Cypher, are found by the Decypherers to have the initial Letters of their Names, *G*—— and *N*——, in which Conjecture they are the more confirmed, by a § Cypher ſeized on *John Plunket*, in which the real Names beginning with *G*. are conſtantly deſigned by fictitious ones beginning with *H*. the Letter immediately following in the Alphabet, and the real Names of the Letter *N*. by others beginning with *O*.

‡ AA. 6.
§ C. 51.

In the ‡ Letter to *Dumville* above-mentioned, was encloſed the † Copy of a Letter from the late Duke of *Ormond* to *L*. which was ſent to *Dumville* as being in part an Anſwer to one received from him; who is meant by *L*, the Committee cannot determine.

‡ AA. 4.
† AA. 5.

In this Letter, the late Duke of *Ormond* mentions his having received an account from *D*—— (General *Dillon* probably) that he had procured Ten thouſand Arms, and adviſes the joyning Stocks with *D*——, ſince they cannot have too many Arms; and ſays he can only depend on Two thouſand Arms from *M*—— (*Morgan* probably) but that he could have had more Arms, if he had had more Money.

The Committee obſerve, that this Account of Ten thouſand Arms procured by *D*——, and of Two thouſand by *M*——, agrees exactly with an * Account ſent ſoon after from Mr. *Stanhope* at *Madrid*, and ‡ confirmed by Sir *Anthony Weſcomb*, that Twelve thouſand Arms were lodged in the Hands of *Brown* at *Bilboa*, for the Pretender's Service, and that *Morgan* was ordered to the Bay of *Biſcay*, in order to tranſport the ſaid Arms to *England*.

* A. 15.
‡ A. 35.

The Committee take Notice likewiſe, that the very ſame Number of Arms is mentioned in a § Letter, writ, as they have good Reaſon to believe, by *George Kelly* to General *Dillon*'s Secretary, and the Arms are there

§ F. 35.

ſpoken

ſpoken of, as provided by *Mansfield*'s Relations, which Name *George Kelly*
* E. 10. * explained to *Neynoe* to mean the late Duke of *Ormond*.

The Circumſtance of *Kelly*'s mentioning theſe Arms to *Dillon*'s Secretary, makes it probable that by *D.* in *Ormond*'s Letter is meant the ſaid *Dillon*, who, as your Committee are informed, is an *Iriſh Roman* Catholick, and quitted *Ireland* on the Capitulation of *Limerick*, and is at preſent a Lieutenant-General in the *French* Service, and has the Command of one of the *Iriſh* Regiments in *France*; and he appears to your Committee, from ſeveral Parts of the intercepted Correſpondence, to have the chief Management of the Pretender's Affairs, and to be the principal Agent and Director of carrying on this Conſpiracy.

‡ AA. 5. *Ormond* in his ‡ Letter to *L*——— afterwards ſays, 'That ſince the Par-
'liament is dead and gone, he thinks it will be a good time to make an
'Effort when the Elector is gone to *Hannover*; and adds, I hope you have
'agreed with *D*—— the time of going for *England*, and when that is fixed
'between Mrs. *Chaumont* and *D*———, you will let *Ormond* know the
'Place of landing in *England*. I deſire an Expreſs may be ſent to me, with
'particular Accounts of what is agreed on.' This, the Committee take
* A. 15. Notice, agrees with Mr. *Stanhope*'s * Intelligence, that *Ormond* was going
† A. 23. for *England*, and likewiſe with † Intelligence ſent from *Rome*, that the Pretender was to Embark, as ſoon as two Officers, Relations of the late Duke of *Ormond*, ſhould arrive at *Porto Longone*; which Circumſtance makes it not improbable, that by Mrs. *Chaumont* may be meant the Pretender.

‡ AA. 5. In the ſame ‡ Letter to *L*———, *Ormond* ſays, 'I have ordered *H*——'s
'Ship, that I depended on, to return to *England*; it was not proper to
'make uſe of it, for Reaſons not neceſſary to trouble you with; there was
'no Meſſage ſent by him, becauſe of the Uncertainty of the time of his
'getting to *England*.

This Paſſage, the Committee are of Opinion, evidently relates to *Halſtead*'s Ship. Upon mentioning his ſending back this Ship, he immediately adds, 'I have ordered *M*———'s Ship to come to *A*———,' which agrees
‖ A. 15. exactly with Mr. *Stanhope*'s ‖ Account, that *Morgan*'s Ships were ordered to the Bay of *Biſcay*,' to tranſport to *England* the Arms above-mentioned, together with *Ormond* and what Officers could be got; and it appears by ſub-
* A. 36. ſequent * Letters from Sir *Anthony Weſcomb* at *Bilboa*, that the ſaid Ships, under the Command of *Morgan*, did put in at *Sainto Andero*, which the Committee underſtand to be the Place meant by *A*———, to which *Ormond* ſays he had ordered *M*———'s Ship to come. The ſaid Ship's having put in at *Andero*, and ſtaid there fifteen Days, is again confirmed by a
‖ A. 45. ‖ Letter from *Genoa*, writ by Captain *Gardiner*, who commanded the Ship *Revolution* lately taken.

† AA. 6. Soon after this Letter to *Dumville*, † another was intercepted here coming from *Spain*, directed *A Monſieur Dodſworth*, not ſigned, encloſed under Cover to *Wilmore* as the former, and writ in the ſame Cypher; the moſt material Paragraph of which is thus explained by the Decypherers.

'I muſt again entreat you to uſe your utmoſt Endeavours, to get the Five
'Thouſand Pounds from Friends returned to *O*——— directly; the Hopes
'given by *G*——— to expect a great Sum, and by *N*———, that he had
'raiſed Twenty Thouſand Pounds, induced *O*——— to ſupply *M*———
'and to make other neceſſary Proviſions. If that Money be not returned,
'it will fall heavy upon *O*———, and he will be diſabled from anſwering the
'Expectation of Friends, therefore ought to be your firſt and greateſt con-
'cern. All other Actions are Trifles in Compariſon of it; for the Hopes
'of Succeſs depend principally on *O*———. I mentioned this in former Let-
'ters, and Friends are deſired to return more than Five thouſand Pounds if
'poſſible. If they do, more Arms and Ammunition and Officers can be
'had here, and the end of raiſing Money by Friends, is, to procure Arms,
'Ammunition and Officers.

To

To whom these Letters were writ does not appear, but the Committee observe that they are writ in the same Cypher with three * Letters, which they have Grounds to believe were from the Bishop of *Rochester*; they observe likewise that the same Cypher is some times made use of by † *George Kelly*. * D. 10. 11. 12. † E. 35.

Mr. *Stokoe* the Bookseller being examined about *Wilmore*, under whose Cover these Letters to *Dumville* and *Dodsworth* came enclosed, could give no other ‡ Account of him, but that he was one who once writ a Letter in his Shop, and desired him by a Letter, dated *Epsom* the first of *March*, 1722, to take in such *French* Letters as should come directed to him, and by another Letter, dated *Harwich* the 14th of *May*, desired him to take in no more; that he *Stokoe* did receive two Letters from abroad so directed, which were fetched away and paid for by Persons to him unknown. ‡ AA. 1.

That the late Duke of *Ormond* was expected to head an Insurrection in *England*, is farther confirmed by the following Particulars.

Neynoe upon his Examination before a Committee of Lords of the Council, § declared, 'That the first Design in the Spring was to have been executed in *London* by seizing the *Tower*; and that the late Duke of *Ormond* was then to have landed in the River; but upon Discovery of the Plot, and the King's not going beyond Sea, it was put off for some time; that the Bishop of *Rochester*, Lord *Orrery*, Lord *North* and Sir *Harry Goring* were the principal Leaders and Directors of the whole Design; and that *Watson* (whom he took to be the late Earl Marishal) had told him, Lord *North* and *Grey* was thought of for the Command. § E. 10.

On the 29th of *April*, *O. S.* † Intelligence came from *France*, That 'the Week before the late Duke of *Ormond* had made Application to the Regent by a Person of great Distinction, for Leave to pass through *France* under a Pretence of going into *Italy*, but that the Regent had absolutely refused him, and at the same time had dispatch'd the necessary Orders to the Frontiers of *Spain*, to hinder him from passing either openly or in Disguise. † A. 4.

On the 2d of *May*, *O. S.* Sir *Luke Schaub* sent * Advice, 'That one 'Lesley had been looking out for Lodgings at *Paris* for the late Duke of 'Ormond; and † on the 9th, that Alderman *Barber* carried with him Bills 'of Exchange for Fifty thousand Pounds Sterling for the Pretender, and 'that the same Summ was sent to *Ormond* by another Hand, to enable him 'to make the necessary Preparations in *Spain* and *Italy*.' The Committee observe, that this agrees, as to the Division of the Money, with a Passage in another ‡ Letter from *Dillon's* Secretary to *George Kelly*, dated the 2d of *May* (*N. S.*) which will be farther explained in its proper Place. * A. 5. † A. 4. ‡ E. 30.

On the 23d of *May*, *O. S.* Sir *Luke Schaub* sent * Advice, 'That the late 'Duke of *Ormond* was to set out from *Madrid* about the 20th of that 'Month, with his Family, without its being known whither he was going, that 'it was believ'd he would give out that he was going to settle at a certain Di-'stance from *Madrid*, from whence he might steal away afterwards unobserved. * A. 11.

On the 28th of *May*, *O. S.* Mr. *Stanhope* † writes word from *Madrid*, 'that having had Intelligence to be rely'd on, that the late Duke of *Ormond* intended speedily to pass into *England*, with a great Number of *Irish* 'Officers at that time in the Service of his Catholick Majesty, in Order 'to put himself at the Head of the Rebels there, and for that Purpose was 'to set out from *Madrid* the next Day, under Pretence of going for the 'rest of the Summer to *Ventosilla*, a House of the Duke of *Medina Celi*, 'half way between *Madrid* and *Bilboa*, but in reality to be thereby readier to 'pass to that Port, and with less Suspicion to embark from thence for *England*, 'whenever Matters should be ripe for his so doing; he made Application to 'His Catholick Majesty by the Marquis *de Grimaldo*, for Orders to be 'sent to all the Ports of *Spain*, to prevent the said late Duke's embarking with 'the Officers above-mentioned, and received a Letter from the Marquis *de* 'Grimaldo (a † Copy of which is annexed to this Report) acquainting him, 'that the King of *Spain* had directed such Orders to be issued, and was ready † A. 15. † A. 17.

'on all Occaſions, more particularly on this, which regarded the Quiet and 'Tranquility of His *Britannick* Majeſty's Kingdoms, to contribute all in 'his Power towards His Majeſty's Satisfaction.

Andrew Pancier, formerly Captain-Lieutenant of Lord *Cobham*'s Dragoons, * D. 1. has * depoſed upon Oath, That being grown intimately acquainted with *Skeene* '(now in Cuſtody) a Perſon related to *Marr*, and engaged in the Rebel-'lions of *Preſton* and *Glenſheild*, *Skeene* began to acquaint him, about *June* 'laſt, that there was a Deſign carrying on in *England* for placing the 'Pretender on the Throne, of which he at different Times told him the 'following Particulars: That ſix or eight Battalions of *Iriſh* Foot dou-'ble Officer'd were to have come over from *Spain*, which were quarter'd 'upon the Coaſt of *Galicia* for that Purpoſe; that the nine *Spaniſh* Men 'of War which have joined the *Dutch*, and four more to have been fitted 'out at *Barcelona*, and three at *Alicant*, (as he beſt remembered) being 'in all ſixteen *Spaniſh* Men of War, were to have been employed in this 'Service. That theſe Troops were to have landed either in *Cornwall*, or 'near *Briſtol*; That there were forty thouſand Stand of Arms in *Great* 'Britain, Part in *Scotland*, other Part in *London*, other Part in *Briſtol*, and 'other Part in *Cornwall*. That there were ſeven or eight hundred Men 'with Officers among them in *London*, ſubſiſted, and in Readineſs for ſuch 'an Occaſion. That a Summ of Two hundred thouſand Pounds had been 'raiſed by Contribution for carrying on this Deſign, and put into the 'Management of the Biſhop of *Rocheſter*, who with the Lord *North* and '*Grey*, were the leading Men among them, and that Lord *Strafford* and 'Lord *Kinoule* knew the Thing. That the Managers of this Affair in '*Spain* were the late Duke of *Ormond* and the late Earl Mariſhal, and thoſe 'in *France*, the late Lord *Marr*, and Lieutenant-General *Dillon*. That 'the Court of *Spain* was in their Intereſt, but as to the Regent and Car-'dinal *Du Bois* they could not tell what to make of them; that this 'Deſign was to have been executed ſome Time ago, but was then diſap-'pointed by the Regent; that the late Duke of *Ormond*, and the late Earl 'Mariſhal were to have come with the Troops before-mentioned from '*Spain*; and the Pretender about the ſame Time was to have left *Rome* 'privately, and to have lain conceal'd ſomewhere near, from whence he 'would have come over when there had been a fair Proſpect of Succeſs. 'That as to any Oppoſition they could expect, we had but Fourteen thou-'ſand Men in all, of which Three thouſand were neceſſary to guard *Lon-'don*, Three thouſand more for *Scotland*, and Two thouſand for the Gar-'riſons, ſo that the Remainder would never dare to attack thoſe who came 'from *Spain*; and in the Confuſion, their (meaning the Pretender's) Friends 'would have been able to have got together, and made a Head. That in 'the Conduct of this Affair there paſſed little in writing, and only the four 'Lords before-mentioned, *viz.* the Biſhop of *Rocheſter* and Lord *North* 'and *Grey* principally, and Lord *Strafford* and Lord *Kinoule*, were con-'cerned in the Management of it here; that the Buſineſs was to have been 'done before the *Dutch* Troops could come to our Aſſiſtance.

The Committee have laid theſe ſeveral Particulars together, though of different Dates, that the Houſe may ſee at one View, the Reaſon there is to believe, that the late Duke of *Ormond* was to have landed in *England* with Officers and Arms, about the Time that it was generally ſuppoſed His Majeſty intended to go to *Hannover*. The Reaſon of *Ormond*'s not coming, is ſufficiently explained by the Orders iſſued at *Madrid* and in *France*, by the King's not going abroad, and by the Diſcoveries, and Diſpoſition of † A. 8 23. the Forces made in *England*. And Notice is taken, in † Letters to One of His Majeſty's Secretaries of State from *Rome*, that a Perſon of great Diſtinction at that Place, had declared it as his Opinion, that the grand Project formed in the Conclave for placing the Pretender on the Throne of *Britain* was going to be put in Execution; but that the ſame Perſon afterwards aſſigned four Reaſons for its having miſcarried, which were, the

want

want of Money, the ſuſpected Faith of the Regent, the want of Skill in thoſe who were to conduct it, and the Puſillanimity of the Pretender, who to avoid hazarding his own Perſon, propoſed to ſend his Child; which laſt Particular is again mentioned in another || Letter from *Rome*. || A. 22.

The Committee now return to ſhew what other Evidences they have before them, of a Deſign laid for beginning an Inſurrection in *London*, at the time when it was ſuppoſed the King intended to go to *Hannover*.

About the latter End of *April*, His Majeſty received ‡ Intelligence from abroad, upon which He can entirely depend, 'That a Deſign was laid 'for bringing in the Pretender, which was thought to be ſo well con-'certed, and conducted by Perſons of ſuch Experience, that if the Secret 'was but kept, as was propos'd, the Succeſs was looked upon as infallible, 'and that it was to be put in Execution about the end of *April*, or be-'ginning of *May*. The original Letter containing this Intelligence has been communicated to your Committee, and an * Extract of it is annex-ed to this Report. ‡ A. 2. * A. 1. 2.

On the 29th of *April* the ſame † Intelligence was repeated, with theſe farther Particulars, 'That the Conſpirators did no longer think it neceſſa-'ry to inſiſt on foreign Aſſiſtance, flattering themſelves that great Part 'of the King's own Forces would declare in their Favour. That they 'now contented themſelves with deſiring the Regent ſhould obſerve a 'Neutrality between his Majeſty and the Pretender; and that Lord *Lanſ-'downe* was to preſent, or cauſe to be preſented, a Memorial to the Regent 'to this Effect, that Day or the next. That the Deſign was probably to 'be executed in *London*, that the beginning of *May* was the time fixed on, 'and that the Pretender was ſpeedily to ſet out for *England*. † A. 4.

Your Committee do not find, that the abovementioned Memorial was preſented to the Regent; but in || Letters from *Plunket* to *Dillon* they find the ſame repeated in theſe Words; 'If the Regent ſtands neuter, we will 'ſoon bring the *Law Suit* to bear;' which *Layer* ‡ explained to be the Pre-tender's Cauſe. || C. 59. 61. ‡ B. 38.

On the 24th of *April O. S.* Mr. *Davenant*, His Majeſty's Miniſter in *Italy*, ſent an Expreſs from *Rome*, with † Advice, 'that the Pretender's 'Adherents were making Preparations in *Cadiz*, and other Ports of *Spain*, 'for an Attempt on *England*; that the Pretender was ſpeedily to embark at '*Portolongone*, and was retired from *Rome* for that Purpoſe;' and * it ap-pears, that the ſame Advice was ſoon after confirmed to his Majeſty, by a Foreign Miniſter reſiding in *England*, who received the Intelligence from a Perſon of great Diſtinction abroad, and communicated it to his Majeſty. † A. 3. * A. 3.

On the 9th of *May*, Mr. *Craufurd*, His Majeſty's Reſident at *Paris*, † writes word, 'that the *Jacobites* in *France* expected ſoon an Inſurrection 'in *England*, which was to be begun by the Heads of their Party here 'ſoon after His Majeſty's ſetting out for *Hannover*, and was to be ſupport-'ed by *Iriſh* Officers and Soldiers, who lay ready at *Cadiz*, beſides ſuch as 'ſhould be able to paſs over into *England* from *France* by Stealth;' and in his || Letter of the 26th of *May O. S.* he adds, 'that the Grounds of this 'Expectation were, Aſſurances given from *England*, that the Conſpirators 'would immediately make themſelves Maſters of the *Tower*, and City of '*London*. † A. 7. || A. 14.

This Intelligence agrees with a ‡ Paper delivered to the Secretaries of State in *July* laſt, by one of the Lords of His Majeſty's Council, who, as they have * certified, aſſur d them, that a Perſon, whom he had good rea-ſon to believe to be deeply concerned in the Conſpiracy, came to him in the Month of *July*, and brought him a Paper, which he affirmed he had copied by Stealth out of the Scrutore of a noble Lord, whom he refuſed to name; and that the ſaid Perſon writ out a fair Copy of the Paper in his Preſence, which contains Minutes of Reſolutions taken at a Conſulta-tion, and is in the following Words. ‡ BB. 2. * BB. 1.

R. That

'*R.* That the Arms be dug up immediately, and diſperſed in ſmall Par-
'cels. Begin in *Southwark*, *Whitechappel*, *Wapping*, *Holborn* and *Smithfield*:
'March into City. Poſſeſs the Gates. Againſt the Horſe, Barricades in
'the narrow Streets, eſpecially at both ends of *Fleet-bridge*, *Shoe-lane*, *Fet-*
'*ter-lane* and *Chancery-lane*. Poſſeſs St. *Clement*'s Churchyard by a Party from
'*Holborn*. A ſtrong Barricade in the narrow Part of that Street. Line the
'two firſt Stories. Bricks, Stones *&c.* may be uſeful in the upper Rooms,
'and may be thrown by Women and others unfit to bear Arms. Lighters, with Ammunition under Coals, lie at *Blackfryers*, and *Milford-lane*.
'No Dependance or Aſſiſtance from *Weſtminſter* and thoſe Parts, except
'ſome few by Water, the Communication being cut off. Meſſage to the
'Lord Mayor by three Lords. Proclamation made to oblige all who ſhall
'not come in, to bring in their Muſquets, and Militia Arms. Declaration
'ready printed, to be diſperſed among the People. Twenty three Officers
'of the Guards to be depended on: a great many others well affected,
'eſpecially the common Centinels. Day reſolv'd on *April* the 30th.
'*R.* That forty determin'd Perſons be immediately pitch'd upon, armed
'with Swords and Piſtols, to execute all Orders, and that for the Sub-
'ſiſtence of the ſaid Forty Gentlemen, Money be advanced out of *the*
'*Fund*, at the Rate of ſeven Shillings *per Diem* for Man and Horſe. Com-
'mander in Chief Lord *N.* Time ſeven in the Morning.

Diſ: *C. W. M.*

The Committee make no doubt but the Houſe will readily obſerve, that this Scheme, drawn up in *April*, and delivered as aforeſaid to one of the Lords of the Council, in *July* laſt, has a near Affinity with † that of *Layer*, and appears to be the Groundwork of it, tho' *Layer* ‡ denies his having ever ſeen any ſuch Paper of Reſolutions, or having received any Inſtructions relating to his Scheme, except from *Wilſon* a Surgeon, *Murphey* a Phyſician, and *White* a Serjeant.

† B.X.1.
‡ B.38.

The Committee likewiſe obſerve from this and *Layer*'s Scheme, as well as from a † Letter of *Sample*'s (of which Notice will be taken in its Place) that the involving the City of *London* in Blood and Confuſion, appears to have been univerſally underſtood and agreed on among all the Conſpirators, as the firſt Step to be taken, and the Foundation of their future Hopes.

† G.9.

By another † Paper delivered in *July* laſt by the ſame Perſon, it appears, that when the Stroke was ſtruck in *London*, there were to be Inſurrections in ſeveral Counties of *England*, and that the Numbers of Gentlemen and private Men, to be depended on both in *London* and the Country, were computed and ſet down; and the Committee obſerve, that the extending the Inſurrection to the Country, after *London* was ſeized, makes likewiſe a Part of ‡ *Layer*'s Scheme, and † *Sample*'s Letter.

† B.B. 4.
‡ B.X. 1.
† G.9.

The Committee farther take Notice that in theſe Schemes as well as in * *Pancier*'s Depoſition, Mention is made of great Quantities of Arms conceal'd for the Uſe of the Conſpirators, and *Layer* having confeſs'd at his † Examination before the Lords, that he ſuppoſed there were Arms provided, and that *Green* the Gunſmith being in Company with Lord *North*, had mentioned Five Thouſand Arms, and Seven Thouſand Arms, and inſiſted, in Contradiction to Lord *North* who bid him hold his Tongue, that there were Five Thouſand Arms ready in the City, The Committee examined him particularly on this Head, but could draw nothing more from him, than * that *Green* had told Captain *Bonyn* at Lord *North*'s that he could help him to Five or Seven Thouſand Arms at an Hour's warning. And tho' your Committee is fully ſatisfied that no Care has been wanting elſewhere to diſcover theſe Arms, and to defeat the Conſpiracy in ſo eſſential a Circumſtance, yet they cannot but think it a melancholy Conſideration, that through the determined Obſtinacy of the Conſpirators theſe Endeavours have hitherto proved unſucceſsful.

*D. 1.
† B. 11.
* B. 38.

The

The Committee obſerve farther that in the *Paper of Reſolutions Mention is made of a Fund of Money provided, and of a great Number of determined Perſons ſubſiſted in *London* for the Purpoſes of the Conſpiracy, for the Execution of which a Day was likewiſe fix'd on and appointed, and the Commander in chief known. All which ſeveral Particulars correſpond exactly with the † Intelligence received at the ſame Time from abroad, with ‡ *Pancier*'s Depoſition, with what *Layer* ‖ own'd Lord *Orrery* had told him, that he believ'd Lord *North* and *Grey* had a Commiſſion for commanding in Chief, and with what *Neynoe* * was told by *Watſon* that Lord *North* and *Grey* was thought of for the Command, as likewiſe with what † was told *Matthew Plunket* by *Layer* and *John Plunket*, that Lord *North* and *Grey* and others were ready to head an Inſurrection.

*BB. 2.

† A. 2, 3. &c.
‡ D. 1.
‖ B. 11.
* E. 9.
† B. 6.

Your Committee having thus laid before you the General Evidence, which convinces them that a Deſign was formed by Perſons of Diſtinction, to invade theſe Kingdoms with a foreign Force; that being diſappointed in this Expectation, they ſtill perſiſted to make an Attempt, with ſuch Officers and Soldiers as could be procured privately from abroad; that the late Duke of *Ormond* was to have landed for this purpoſe, and to have been followed by the Pretender; that Arms and Money were provided, and Men ſubſiſted for this Service; that the Inſurrection was to have been begun in *London*, and thence to have been extended over the whole Kingdom; They will now proceed more particularly to explain the ſeveral Parts, which the Leaders and inferior Agents appear to have taken, in conducting this Deſign, as far as the ſame can be collected from the intercepted Correſpondence and other Papers referred to them, and from the Examinations of the Perſons concerned, by which it will farther appear to the Houſe, that the Deſign was conſtantly proſecuted in all Parts, without any other Relaxation or Intermiſſion, than what the Neceſſity of their Affairs, and the Diſcoveries made, obliged them to, in order to lay their Meaſures deeper, and to make the Succeſs of them more certain; and that the Enterprize, which was firſt calculated for the Spring, was to have been afterwards put in Execution at the breaking up of the Camp, with the Help of Officers and Soldiers from abroad, if they could be obtain'd; if not, on the Strength of ſuch as they hoped to be able to corrupt and ſeduce among His Majeſty's own Forces.

The Leaders, in order (as 'tis natural to believe) to ſave themſelves from the Danger of Legal Conviction, choſe to manage their Correſpondences by the Intervention of Perſons of a meaner Rank and Figure, and of deſperate Fortunes, who, they hoped, might eſcape the Obſervation of the Government, being no otherwiſe conſiderable than as the Truſt repoſed in them made them ſo.

The Committee think proper to take Notice, that of theſe inferior Agents, *Layer* appears to have been principally intruſted by Lord *North and Grey* and Lord *Orrery*, and that *Plunket*, who travelled with *Layer* to *Rome*, and whoſe treaſonable Practices and Correſpondences are cloſely connected with thoſe of *Layer*, writes of himſelf as tranſacting part of his Treaſons with Lord *Orrery*'s Clerk, and ſends frequent Accounts to the Pretender's Agents abroad, of matters relating to the ſaid Lord.

George Kelly, a Nonjuring Clergyman at preſent, (tho' in the late Queen's time, the Committee is informed, he took the Oaths to the Government, and likewiſe the Abjuration) appears to have been the Perſon principally entruſted by the Biſhop of *Rocheſter*, and to have been employed in writing for him, and conveying Letters to him, until the time that he, *Kelly*, was firſt taken into Cuſtody; after which it appears to the Committee, that *Thomas Carte*, another Nonjuring Clergyman, was entruſted and employed by the Biſhop in the ſame manner; and the Committee obſerve, that *George Kelly*'s Correſpondence has a cloſe Connexion with that of

Dennis Kelly, and likewiſe that he appears to have been privy to *Plunket*'s and *Neynoe*'s Tranſactions.

The Perſon employed by the Duke of *Norfolk*, in conveying Letters between him, and *George Jernegan*, an Agent of the Pretender's in *Flanders*, they find to be Mrs. *Spelman*, alias *Yallop*, who has likewiſe owned her conveying Letters in the ſame manner between Mr. *Harvey* of *Comb*, and one *Moor* of *Brownlooe-Street*, and the ſaid *Jernegan*; the Committee obſerve, that *John Sample* acted under the Direction of Mr. *Sempill* (commonly called Lord *Sempill*) and his Son at *Paris*, and that he wrote Letters to the late Duke of *Ormond* and the Pretender; but whom he tranſacted Matters with in *England*, your Committee do not find, by his Examination, he would declare.

The Committee farther obſerve, that this treaſonable Correſpondence extended itſelf into *Scotland*; that *William Ereskine* remitted Money to *France* for the Service of the Pretender's Friends, and had a Letter under the late Lord *Marr*'s Hand found upon him, when he was taken into Cuſtody. That Mr. *Cockran* now in Cuſtody, and others of that Country yet unknown, were concerned in the ſame treaſonable Correſpondence, carried on under the ſame fictitious Names and Expreſſions, that are made uſe of by ſeveral of the Correſpondents in *England*; and that the ſame Cant was likewiſe made uſe of, for the ſame Purpoſes, by Perſons in *Ireland*. That all theſe ſeveral Negotiations and Correſpondences concurred in one common Deſign, of ſtirring up an Inſurrection in theſe Kingdoms, and placing the Pretender on the Throne.

The Committee have thought it proper to lay before the Houſe ſuch Particulars as occur to them relating to each of theſe Negotiations, and to begin with thoſe of *Layer* and *Plunket*, as being cloſely connected with one another, and ſet on foot earlier than it yet appears the others were, and as being likewiſe what the Houſe thought fit firſt to refer to the Examination of the Committee; and by comparing the Subſtance of the Papers, and Examinations of theſe two Perſons together, the Houſe will be enabled, at one View, to form a true Judgment of the Sincerity of their Confeſſions.

Before the Committee examin'd Mr. *Layer*, they acquainted him that the ſeveral Queſtions they intended to propound to him were reduced into Writing, and that to avoid all Miſtakes, his Anſwers ſhould be ſo likewiſe, and before they were reported to the Houſe he ſhould have the Peruſal of them, accordingly he did review his firſt Confeſſion to the Committee, and made ſeveral Additions and Alterations, which will be taken notice of in their proper Places.

Mr. *Layer* has own'd partly to a Committee of Lords of the Council before his Tryal, and partly to your Committee (as will appear by reference had to his * ſeveral Examinations annex'd to this Report) 'That being bred 'up under an Uncle who was a Nonjuror in *Norfolk*, he early imbib'd 'thoſe Principles; that having a private Affair to tranſact at *Venice*, this 'and a natural Inclination and Curioſity, which he had always had to ſee the 'Pretender, carried him on to *Rome*; that he ſet out from *England* on the firſt 'of *April* 1721, in Company with *John Plunket* now in Cuſtody, who went 'ſometimes by the Name of *Rogers*, whoſe Expences he bore on account of 'his being uſeful to him as ſpeaking ſeveral Languages. That he believes 'from the time of his firſt acquainting *Plunket* with his intended Journey '(which was ſome Months before their ſetting out) the ſaid *Plunket*, in or-'der to magnify his Services to the Pretender and his Adherents, might 'write to General *Dillon*, and others of them, that he was going to '*Rome* with a Friend, and that his and his Friend's Journey would be of 'great conſequence to the Pretender's Affairs.' But this Particular he did not own till the Review of his Examination, when he found the Committee were appriſed that Notice had been ſent to *Rome* of his Journey; for

* B. 8, 9, 10, 11, 38.

for he inſiſted at firſt, that his Journey to *Rome* was purely Accidental, and not concerted with the Pretender or any of his Agents.

He farther owned, 'that, in their Way to *Italy*, they paſſed through 'Antwerp, and that *Plunket* there received a Letter from General *Dillon*, 'which he ſhewed to *Layer*, directing them whom to apply to, on their 'Arrival at *Rome*, to introduce them to the Pretender; and on his reviewing his Examination, when he found your Committee were in Poſſeſſion of that Letter, he owned, 'that *Francis Kennedy* was the Perſon 'they were directed by *Dillon* to apply to. A *Letter to that effect being found among *Plunket*'s Papers, ſigned *Dixwell*, and the ſame being ſhewn by your Committee to *Layer*, he declared, 'that to the beſt of 'his Memory and Belief, it was the very Letter which was ſhewn to him 'by *Plunket* at *Antwerp*, and affirmed by *Plunket* to be from General 'Dillon; that he *Layer* believes, *Dillon* goes by the Names both of *Dixwell* and *Digby*; and that by the Name of *Joſeph*, in the ſaid Letter, is 'to be underſtood the Pretender. *B. 24.

'That he and *Plunket* arrived at *Rome* the latter end of *May* 1721, and 'that after he had been a Day at *Rome*, he ſent to *Francis Kennedy*, Secretary to the Pretender, to let him know he ſhould be glad to ſee him, 'and to renew Acquaintance with him.

Being asked, when and where he firſt became acquainted with *Francis Kennedy*, he ſaid, 'that *Kennedy* has a Brother, Secretary to the late Duke 'of *Ormond*, with which Brother he had ſome Acquaintance, and he 'thinks he has formerly been in *Francis Kennedy*'s Company at *London* 'along with the other Brother, but as to this Particular he cannot be 'poſitive.' This is what he ſaid relating to *Kennedy* at his firſt Examination, and your Committee obſerved by his Behaviour, that he was under Difficulties how to account for his applying to *Kennedy*, not having owned at that time that he had any Directions ſo to do, and being willing to have your Committee believe, that his Journey was not known of at *Rome*; but after *Plunket*'s Examination, being uncertain what *Plunket* might have confeſs'd, he thought it proper to be more open upon this Head, tho' contradicting in ſome meaſure his own former Confeſſion. He farther ſaid, 'that upon his ſending to *Francis Kennedy*, as above, the ſaid *Kennedy* came to his Lodgings, which at the ſame time he ſaid he was ſurpriſed at it, it being in the Face of all the *Engliſh* Gentlemen; but that 'Kennedy told him, he needed not be uneaſie at his coming to his Lodgings openly, ſince he frequented the Company of all the *Engliſh* Gentlemen that came to *Rome*, without Diſtinction; That at the firſt Viſit he 'deſired *Kennedy* to introduce him to the Pretender, which he promiſed 'to do. That *Kennedy* came to him again the next Night, and promiſed 'to introduce him to the Pretender privately in an Evening, ſo that no 'Body ſhould be able to prove his having been there.

And when he reviewed his Examination, being asked by your Committee, whether he knew of any Letter to *Plunket*, on their firſt coming to *Rome*, and being asked it in ſuch a manner, as let him underſtand, that they knew from whom it came, and by whom it was writ, then, and not till then, he owned, 'that he believed *Kennedy* delivered to *Plunket* a 'Letter under the Pretender's own Hand, when *Kennedy* and *Plunket* 'were alone together; for the next Morning, as he *Layer* was in Bed, in 'a Room next adjoining to that where *Plunket* lodged, *Plunket* came to 'his Bedſide, and told him with ſeeming Satisfaction, that he had got a 'Letter under the King's (meaning the Pretender's) own Hand, but that 'Kennedy never ſaid one Word of this Letter to him, *Layer*. That 'Plunket ſhewed him, *Layer*, the ſaid Letter, the whole of which he believes to have been writ in the ſame Hand in which the Blank 'Receipts taken amongſt his Papers at Mrs. *Maſon*'s are ſigned, which 'he believes to be the Pretender's own Hand. That the Subſtance of

'the

'the Letter was, that the Bearer, *Francis Kennedy*, would introduce '*Plunket* to the Pretender. He ſaid, he could not be poſitive, whether 'it was ſaid in that Letter, that *Kennedy* would introduce *Plunket* only, or 'whether he himſelf was mentioned likewiſe to be introduced by *Kennedy*. 'That *Plunket* told him he ſaw the Pretender the Night before *Layer* 'was introduced to him.

This Original Letter has ſince been delivered to your Committee, with
*C.70,71. the * Depoſitions relating to it, by which it appears, that *Plunket* delivered it with other Papers to one *Mary Faghan* about *Michaelmas* laſt, which was near the time of *Layer*'s being taken up; it is dated *Thurſday* Morn. ſigned *James* R. and directed to Mr. *Plunket*, and is in the following Words:

'This is only to direct you not to mention any thing of Buſineſs to 'any body till I have ſeen you. I have not much leiſure to Night, ex-'pecting Viſits; but however I ſhall be glad to ſee you alone, and agree 'with you the moſt private way and manner for your *Companion* and 'me to meet. The Bearer *Fr. Kennedy* will bring you very privately to 'my Houſe to Night about Eight a Clock.

James R.

For Mr. Plunket.

Your Committee obſerve from this Letter, as well as from other Papers before them, what a degree of Truſt and Confidence *Plunket* was admitted to, (notwithſtanding he would endeavour by his preſent Appearance to make it ſeem incredible) and perceive likewiſe by this Letter, that his and *Layer*'s Journey to *Rome* had been repreſented to the Pretender as an Affair of ſome Importance.

Layer farther ſaid, 'that *Kennedy*, in his ſecond Viſit, appointed him 'to meet him and Colonel *Haye* in the Square before the Pretender's Houſe 'at ten the next Night; that he met them there, and that they conducted 'him up a pair of Back Stairs to the Pretender.

Before the Committee proceed to give an Account of the Converſation which *Layer* ſays he had with the Pretender, they think it proper to obſerve, that among *Plunket*'s Papers were found two foul Draughts of Letters, which are ſworn to be *Plunket*'s hand-writing, which give ſome Light to the Occaſion of his and *Layer*'s Journey to *Rome*; the firſt is without Date or Direction, but appears evidently by the matter to have been writ to the ſame Perſon and about the ſame Time as the ſecond, which is dated the 22d of *March*, 1721 (about ten Days before his and *Layer*'s ſetting out) and directed *To Mr. Jackſon*, which Name is found in
*C. 51. a *Cypher taken among *Plunket*'s Papers, and ſworn likewiſe to be his Hand-writing, to denote the Pretender.

‖B. 23 In the ‖ firſt of theſe foul Draughts are theſe Words: 'There is one
‡B. 38. 'that ſets out from *Norfolk* in a few Days to let you know they (that is the *Tanners* which he ‡ explained to *Layer* to mean the Tories) 'will ſtand 'by you on occaſion; he only ſtays for me, and offers to bear my Ex-'pences, ſo that I ſhall wait on you, and have the Satisfaction to tell you 'by Word of Mouth what will be acceptable. He carries *The Liſt* with 'him, no doubt on't you may have many ſuch now.

†C. 41. In the † Letter to *Jackſon* of the 22d of *March* are theſe Words:
'The Gentleman I mentioned to you formerly, is come out of the 'Country with Inſtructions to wait on you, and render you their Ser-'vice. He offers to bear my Expences.

From

From theſe Paſſages compared with the ‡ Letter received by *Plunket* from ‡ B. 24.
Dillon at *Antwerp*, in which *Dillon* ſays, 'I have ſent *Joſeph* Advice of 'your Journey, in which I wiſh you and your Companion, tho' un- 'know, all Happineſs;' and then directs him to apply to *Kennedy* at *Joſeph*'s Houſe for Introduction; and compared likewiſe with the Pretender's ‖ Letter to *Plunket*, in which he directs him not to mention any thing of ‖ C. 69.
Buſineſs to any Body, till he had ſeen him alone, in order to agree with him the moſt private Way and Manner for meeting his Companion; It appears to your Committee to be moſt evident, that *Layer* did not undertake ſo long and expenſive a Journey on uncertain Proſpects of private Buſineſs, or out of mere Curioſity, but that his Journey was concerted with the Pretender's Friends at Home, and notified to the Pretender and his Agents abroad, and that he carried over with him Tenders of Service to the Pretender from Perſons in *England*, as likewiſe a *Liſt* of Names, which was of ſuch Importance, and ſo well underſtood and expected at *Rome*, as to be mentioned by *Plunket* in one of his Letters to the Pretender, without any other Deſcription, than barely that of *The Liſt*.

The Committee thought this Obſervation the more neceſſary to be premiſed, becauſe *Layer* did of himſelf own to them his giving to the Pretender a Liſt of Names, and the Pretender's asking him, at a ſecond Interview, what he had to ſay in relation to *his Liſt*; but yet endeavoured to explain that Affair, in ſuch a Manner as your Committee apprehend to be no ways conſiſtent with *Plunket*'s foul Draughts abovementioned, nor with the Expectations that ſeem to have been raiſed in the Pretender and his Agents, from *Layer*'s and *Plunket*'s Journey.

Layer told your Committee, 'That on his being introduced to the Pre- 'tender, by *Kennedy* and *Haye*, as abovementioned, the Pretender ask'd 'him the Occaſion of his coming, and whether he had any Credentials 'from People in *England*; that he anſwered, Nothing but Curioſity and a 'Deſire of paying my Duty to your Majeſty has brought me hither; That 'the Pretender asked him, What Lords he was acquainted with: to 'which he anſwered, None but ſuch as he was concerned with in the way 'of his Profeſſion; That the Pretender again expreſſed himſelf ſurpriſed at 'his having no Credentials nor Recommendations from any Perſon in *Eng- 'land*, and ſaid, This Journey muſt have been very expenſive to you, I be- 'lieve it cannot coſt you leſs than Five Hundred Pounds: To which he 'anſwered, That a Private Affair, which brought him to *Venice*, would 'have defrayed the Expence, if it had ſucceeded, but that being diſap- 'pointed in that, his Inclination drew him on to *Rome*, to pay his Duty 'to the Pretender, which he had long had in his Thought, ſo took this 'Opportunity of doing it; that one *Plunket*, who was now in *Rome* with 'him, had often told him, that he need not fear being introduced, or to 'that Effect; That the Pretender ſaid, he believed, *that Plunket* was a 'very honeſt Man, and as proper a Perſon as *Layer* could have had for a 'Companion.

The Committee obſerve, that was is here ſaid concerning the Pretender's good Opinion of *Plunket*, and *Plunket*'s having given Aſſurances to *Layer* of his being introduced, was not mentioned by *Layer*, till after *Plunket* had been examined.

Layer farther ſaid, that the Pretender again repeated his Surpriſe at his having no Recommendation from any Perſon in *England:* But ſaid, I am informed by *Francis Kennedy*, who knows you, that you have a good Character, and for that Reaſon you are welcome without any Credentials. Yet your Committee obſerve, that Dr. *Blackerby Fairfax* (an intimate Acquaintance of *Layer*'s) has *depoſed upon Oath, 'That *Layer*, ſince his Re- * B. 36.
'turn from *Rome*, told him, that while he was in private Audience with 'the Pretender, a *Scotch* Colonel broke in upon them, upon which the 'Pretender took him into another Room, and that he, *Layer*, did there 'deliver his *Credentials* to the Pretender.

Layer told the Committee, 'That the Pretender, after the Diſcourſe 'abovementioned, asked him what County he was of, and what Gentle- 'men he knew; that he anſwer'd he was of *Norfolk*, and knew all the 'Tory Gentlemen of that Country; That the Pretender asked him if he 'could recollect their Names, and put them down in writing; to which 'he anſwer'd, He could eaſily do that, having brought with him Memo- 'randums of their Names; that accordingly, he drew up a fair Liſt of the 'Tory Gentlemen of *Norfolk*, and gave the ſaid Liſt to the Pretender at 'a ſecond Interview, thinking it would be agreeable to him. That the 'Pretender than asked him, whether he would ſee the Queen (meaning 'his Spouſe) and promiſed ſhe ſhould admit him to kiſs her Hand.

'That about three Weeks or a Month after, *Francis Kennedy* and Co- 'lonel *Haye* appointed him to meet them at the ſame Place and Time as 'before, and introduced him to the Pretender and his Spouſe; That the 'Pretender then called him to him, and asked him, Whether he had any 'Thing to ſay in relation to his Liſt; that he anſwered, He forgot ſome- 'thing which he had to communicate to His Majeſty; That the Preten- 'der ſaid, His Wife would go out of the Room preſently, and ſoon after 'ſpoke to her in *Italian*, to withdraw, as he believes. That the Preten- 'der then asked him, what he had to ſay; to which he replied, I have 'nothing ſo material to offer as ought to have procured me this great 'Honour and Indulgence; but if there be any Service on Earth I can do, 'I am moſt ready; That the Pretender ſaid, What can you do? have you 'any Acquaintance? To which he replied, that all the Perſons mentioned 'in his Liſt were entirely devoted to the Pretender's Intereſt, and all the 'Gentlemen in *England* the ſame, except thoſe in Places of Profit and 'Truſt, and that all Parties were united in his Intereſt. That the Pre- 'tender then asked him, what the Gentlemen were whoſe Names were 'on his Liſt, to which he anſwer'd, they were all Tories, and that he 'had not put down any of the *Roman* Catholicks of *Norfolk*, of whom 'there were ſeveral, Men of Eſtates. That the Pretender ſaid, he believed 'the People of *England* were generally well inclined to his Cauſe, and 'pretty well convinced of their Error; and then ſpoke of the Diſcontents 'occaſion'd by the *South-Sea* Scheme.

The Committee obſerve, that in the Cypher, which *Layer* received from Sir *William Ellis*, the Names of ſeveral *Norfolk* Gentlemen are inſerted, who they think it probable made a Part of the Liſt delivered by *Layer* to the Pretender; but at the ſame time they think it a Juſtice due to thoſe Gentlemen, to obſerve, that *Layer* has owned to the Committee, that, in order to magnifie the Number of the Pretender's Friends, he did in ſeve- ral of the Liſts found among his Papers, inſert the Names of Perſons, as well affected to the Pretender's Service, without having the leaſt Authori- ty from them for ſo doing; and his falſe Aſſertion to the Pretender, that all the Gentlemen in *England*, except thoſe in Places of Profit and Truſt, were entirely devoted to his Intereſt, ſhews, that he made no Diſtinction between the Innocent and the Guilty.

He next acquainted the Committee, 'That after the Diſcourſe be- 'forementioned with the Pretender in relation to the Liſt, the Preten- 'der commended his Zeal, and told him, he might depend on any Service 'he could do him. That he, *Layer*, then deſired ſome Token, by which 'he might obtain Credit among the Pretender's Friends of the Nobility 'in *England*, and obtained that of the Pretender and his Spouſe's anſwer- 'ing for his Child;' which the Committee avoid repeating, the Account he gave them, agreeing with that printed in his Tryal. He ſaid, 'That 'upon his deſiring a Letter to the Dutcheſs of *Ormond*, for her repreſenting 'the Pretender's Spouſe, Colonel *Haye* told him, no Letter could be ſent 'by him, but that care would be taken the Dutcheſs ſhould ſtand. That 'he likewiſe gave him a Meſſage to the Dutcheſs, to this effect, that *the 'Duke of* Ormond *was well, and gone to* Madrid, by which, he told him, 'ſhe would underſtand the Buſineſs he came about.

'That

'That he returned to *England* about the End of *Auguſt* or Beginning 'of *September* 1721, and waited on the Dutcheſs with his Requeſt, adding, 'that he hoped ſhe was not altogether a Stranger to that Affair; to which 'ſhe returned him no particular Anſwer, but promiſed to ſtand God-'mother, as he deſir'd.

'That he then made Application to Lord *Orrery* to ſtand with her, by '*Thomſon*, whom he took to be her Chaplain, and by *Swortfegger*, Lord '*Orrery*'s Secretary, who underſtood that Lord *Orrery* was deſired to repre-'ſent the Pretender; that the ſaid Lord ſent to the Dutcheſs to know 'whether ſhe ſtood, who anſwered that ſhe did; yet Lord *Orrery* refuſed; 'but upon farther Acquaintance, and hearing that Lord *North* and *Grey* 'had conſented to ſtand, he ſent for *Layer*, and made Excuſes to him for 'this Refuſal. That he made uſe of this Credential to Lord *Orrery*, to 'induce him to converſe freely with him in relation to the Pretender's 'Affairs, having heard that the ſaid Lord was in the Pretender's Intereſt.

'That upon his being refuſed by Lord *Orrery*, he made his Application 'to Lord *North* and *Grey*, as mention'd in his Tryal, who ſtood, knowing, 'as he believes, that he ſtood for the Pretender. That this Tranſaction 'was the Beginning of his Intimacy with Lord *North* and *Grey*.

'That the firſt Converſation he had with Lord *North*, relating to the 'Pretender's Affairs, was ſoon after the Chriſtening; that he then asked 'Lord *North*, whether nothing could be undertaken in the Pretender's Fa-'vour, his Lordſhip being a military Man. That his Lordſhip reply'd, he 'believ'd the Pretender had Friends enow, if they did but underſtand 'one another; that the Army in general, and moſt of the Half-pay Offi-'cers were well inclined to the Pretender.

'That in *July* laſt he, *Layer*, going down to *Norfolk* on the Circuit, 'called on Lord *North* at *Epping*, and again at his Return; that he then 'asked the ſaid Lord again, whether nothing could be done in favour of 'the Pretender; that Lord *North* ſaid, How can any thing be done, while 'ſo great a Body of Forces is encamped under the very Walls of *London*, 'beſides the Encampments in other Parts of the Kingdom? That *Layer* 'told him, he found moſt of the Gentlemen in *Norfolk* that were Tories 'before, Jacobites now; that Lord *North* and *Grey* ſaid, it was the ſame 'in other Counties, but that nothing could be done till the Camp ſhould 'break up. That upon *Layer*'s preſſing him to know whether any Scheme 'was formed, Lord *North* ſaid, What does your Friend Lord *Orrery* think 'of things? that he anſwered, Lord *Orrery* was of Opinion, nothing could 'be done without a Foreign Force; that Lord *North* and *Grey* reply'd, I can-'not be of his Opinion, I believe the People of *England* may do it of them-'ſelves.

'That *Layer* viſiting him during the Vacation, and ſtaying two or three 'Days at his Houſe, continued to preſs him about forming a Scheme; that 'Lord *North* reply'd, We Soldiers do not trouble our ſelves much about 'Schemes, *Be you quiet, ſomething will be done.*' And at his * Examination * B. 11.
before the Lords, he owned 'that Lord *North* and *Grey* ſaid, If there be 'a Riſing, you ſhall not want Men, or Money, or Arms.

Layer farther gave your Committee an Account of his becoming acquainted with *Lynch*, and of his carrying him to Lord *North* and *Grey*, upon *Lynch*'s telling him that he had ſomething to propoſe to the ſaid Lord, that might be of great Service to the Pretender's Cauſe. But in giving an Account of what paſſed between *Lynch* and him at the *Green-Man*, your Committee obſerved, that *Layer* took great Pains to ſhew, that he did not communicate any Papers to *Lynch till after Dinner*, and that he then only ſhewed him Memorandums, tranſcribed out of the Prince of *Orange*'s Declaration, though *Lynch* has † depoſed upon Oath, that mention was made, in † B. 1.
that Paper, of Lord *Cadogan*'s being ſeized, and remaining in the Cuſtody of the Conſpirators.

He

He owned to your Committee his having carried *Lynch* to Lord *Cadogan's*, but ſaid, 'he went thither only in relation to the Purchaſe of an 'Eſtate; that while they were waiting there in a Room next the Garden, '*Lynch* viewed the Garden and Houſe, and ſaid, I can eaſily ſeize you this 'General; but he deny'd their having had any previous Diſcourſe to this 'Purpoſe, and ſaid the Propoſal aroſe from *Lynch*, and that he, *Layer*, was 'mad enough to make it part of his Scheme.

He ſaid, 'that when *Lynch* and he came to Lord *North* and *Grey's*, his 'Lordſhip asked him who *Lynch* was; that he ſaid, he was an honeſt Gen-'tleman, recommended by a particular Friend; that his Lordſhip ſaid, I 'wonder you would bring him, you know I am not eaſy nor free before 'Strangers. That however, Lord *North* and *Grey* entertained *Lynch* civilly, 'and after Supper enquired of him, whether he was in the Army, to which '*Lynch* anſwered, that he was bred up to Merchandize, but had been with 'the Pretender in *Scotland*, and had the Command of a Ship under the 'King of *Spain* in the Deſcent on *Scotland*, and enlarged much on his Loy-'alty and Zeal for the Pretender, but that Lord *North* waved the Diſcourſe.

'That not long after, *Lynch* came down again to Lord *North* and *Grey's* 'to *Epping*, while *Layer* was there a ſhooting, and was civilly receiv'd by 'his Lordſhip; and that after he was gone, *Layer* making Apologies for '*Lynch's* intruding, Lord *North* and *Grey* ſaid, *Lynch* was a good honeſt 'Fellow, and had entertain'd them with ſeveral merry Stories.

The Committee obſerved, that *Layer* in relating what paſſed while *Lynch* was at Lord *North's*, took ſo much pains to ſhew that Lord *North* and *Grey* could have no private Diſcourſe with *Lynch*, that he left no room for the ſaid Lord *North's* having had any private Diſcourſe with him, *Layer*, which
† B. 11. yet is inconſiſtent with his † Examination taken before the Lords, as well as with his Confeſſion to your Committee, in another Part of which he owns, that while *Lynch* was at Lord *North's*, he, *Layer*, ſhewed Lord *North* ſome Part of his Scheme or Heads relating to a Declaration, as he was walking with him in the Garden, and that they had ſome Diſcourſe upon it.

They obſerve likewiſe, that what he owned to the Committee in relation to his introducing *Lynch* to Lord *North* and *Grey*, falls very ſhort of what he confeſſed to the Lords of the Council on the ſame Subject, previouſly
‖ B. 11. to his Tryal; for he ‖ then ſaid, 'that *Lynch* having told him he would ſeize 'Lord *Cadogan*, he carried *Lynch* to Lord *North* and *Grey's*, and recom-'mended him as a proper Perſon for ſuch an Attempt. That he had be-'fore-hand propoſed to Lord *North* and *Grey* the carrying *Lynch* to him, 'that his Lordſhip made a Difficulty of ſeeing him, but that he *Layer* in-'ſiſted on *Lynch's* being an honeſt Man, fit to be employ'd in an Inſurre-'ction for the Pretender, ſaying *Lynch* would do any thing his Lordſhip 'would have him, if there ſhould be a Riſing; that he was fit to be ſent 'with a Party to ſeize any particular Perſon, and that *Lynch* was impatient 'to ſee his Lordſhip, *Layer* having told him, that his Lordſhip was at the 'Head of thoſe Deſigns.

Layer farther acquainted your Committee, 'that during his Stay at Lord '*North* and *Grey's* at *Epping*, in the Vacation, he again preſſed his Lord-'ſhip to bring Matters to ſome Iſſue in favour of the Pretender, ſaying, If 'ſome thing be not done ſpeedily, we ſhall all be taken up; that his Lord-'ſhip reply'd, Is not the Camp there ſtill? If you can find ſome Expedient, 'it would be well, it is more than I can do; that *Layer* ſaid it was his O-'pinion ſomething might be done even during the Encampment; and in 'order to diſcover whether Lord *North* and *Grey* and Lord *Orrery* had any 'Scheme of their own, he drew up a Scheme himſelf, and having ſo done, 'lodged it with Mrs. *Maſon*, the Day before he was taken up. That he 'intended to have communicated this Scheme to Lord *North* and *Grey* and 'Lord *Orrery*; that he had ſome Diſcourſe with *George Wilſon*, Dr. *Mur-'phey* AND OTHERS on the Subject of it, before it was drawn up.' 'Being asked, who thoſe OTHERS were, he ſaid, 'he could recollect no one elſe 'but one who called himſelf Serjeant *White*, whom he ſaw in company

'with

'with Dr. *Murphey* at a Tavern, and enquired of him, how far ſome Parts 'of his Scheme were practicable.

Being asked whether he had ſhewn this Scheme to any Body, he ſaid, 'He did ſhew the Heads of it to Lord *North* and *Grey*, as he was 'walking with him in the Garden, and that his Lordſhip ſaid, all was im-'practicable during the Encampment; but that he never ſhewed his 'Scheme to any Body, after it was drawn up *in the Form in which it was 'left with Mrs.* Maſon;' which laſt part of his Anſwer, the Committee obſerve, may be Evaſive, ſince by his own Account, as ſoon as he had drawn it up in *that Form*, he lodged it with Mrs. *Maſon*, and the Day after was taken into Cuſtody.

The Committee farther take Notice, That the Accounts he gave when he was queſtioned before the Lords, whether he had ſhewn this Scheme to any Body, are inconſiſtent and contradictory.

For in ſome Parts of that § Examination, he ſays, 'Lord *North* and *Grey* § B. 11. 'would not hear of any thing till the Camp was broke up; That the ſaid 'Lord would not ſee his Scheme; That the ſaid Lord ſay'd, he might 'keep his Heads and his Schemes to himſelf, for there was nothing to be 'done; That the ſaid Lord ſay'd there was Time enough for forming a 'Scheme;' and yet in another Part of the ſame Examination, he ſays, 'Lord *North* did not diſlike a Scheme in general, but diſapproved his 'Scheme.

Your Committee beg leave to make the following Obſervations on theſe *Paſſages*, with a *Deſign* to ſhew the Inſincerity and Inconſiſtency of *Layer*'s Confeſſions, and without preſuming to draw from them any other Concluſions.

Firſt, That if what *Layer* ſaid, was true, Lord *North* muſt have peruſed and examined *Layer*'s Scheme, ſince a Man that did not diſlike a Scheme in general, could not be ſaid to diſapprove any particular Scheme, unleſs he had firſt conſidered and examined it.

The Committee obſerve farther, that the Scheme itſelf does not appear drawn up by a Man of *Layer*'s Profeſſion, aſſiſted only, as he would inſinuate, by *Murphey* a Doctor of Phyſick, *Wilſon* a Surgeon, and *White* a Serjeant; and they cannot but think it very extraordinary, that his Scheme drawn up in *Auguſt* or *September*, ſhould have ſo great an Affinity with the * Paper of Reſolutions, for *the digging up the Arms*, &c. mentioned above, * BB. 2. which was drawn up the *April* before, and yet that *Layer* ſhould have had no ſight of that Paper, nor have received any Inſtructions or Aſſiſtance from any Perſons, who were privy to thoſe Reſolutions, which he has declared to the Committee he had not; and the Committee are farther confirmed, that the Scheme was not drawn up by himſelf, from a Particularity contained in a * Depoſition of Dr. *Blackerby Fairfax*, who has ſworn, that * B. 37. being for four or five Years paſt employed in reading Civil Law and *French* to the ſaid *Layer*, he recollects that *Layer* once asked him the Meaning of the *French* Motto, ſince prefixed to his Scheme in theſe Words; *Au defaut de la Force il faut employer la Ruſe*; and that upon *Fairfax*'s explaining it to him, *Layer* ſaid, it had been explained to him in the ſame manner by others. Neither does the Scheme appear drawn up at a Venture, or merely with a View of engaging the Pretender's Friends in the Execution of this, or ſome other Scheme of their own, as *Layer* would inſinuate, but ſeveral Paſſages in it, compared with his other Papers, make it probable, that the Officers, Serjeants, Soldiers and Arms mentioned in the Scheme, were firſt engaged and prepared, and then the ſaid Scheme drawn up, for employing in the beſt manner poſſible ſuch a Force as had been ſo prepared.

This appears by comparing theſe Words in the third Paragraph of his ‡ Scheme ('And as there is eight Serjeants, *viz.* Three of the firſt Regi- ‡ B. X. 1. 'ment of Foot Guards, Three of the ſecond, and Two of the third, all 'ready at an Hour's warning to obey Orders) with two of his Papers taken

'with

with his Scheme at Mrs. *Maſon's*, *viz.* * That which contains a Liſt
* B. X. 9. of Thirteen Serjeants of the Guards, and another † Paper of *Layer's* Hand-
† B. X. 7. writing, which contains Eleven of theſe Thirteen Serjeants Names, and Eight of thoſe Eleven Serjeants have Marks ſet againſt their Names; ſo that it may be concluded from thence, that *Layer* had been able to engage but Eight of the ſaid Thirteen Serjeants, and therefore in his Scheme he mentions no more than Eight Serjeants.

The Truth of this Obſervation farther appears, by comparing *Layer's* ſaid
* B. 11. * Examination of the 1ſt of *October*, with the Fourth Paragraph of his Scheme; for in that Examination he ſays that *George Wilſon* had aſſured him, that two hundred of the Soldiers in the Camp had been ſpoken to and were ready; and therefore *Layer*, in the ſaid Fourth Paragraph of his Scheme, mentions only two hundred Soldiers to be ready, and gives every one of his eight Serjeants the Command of Five and Twenty of the ſaid Two Hundred Men. From whence it may be concluded, that the Officer that was to ſeize the *Tower*, and the Arms for executing the Scheme, were alſo in a Readineſs.

It is farther remarkable, that *Layer* intended, as he owned to your Committee, to communicate this Scheme in its preſent Form, to Lord *North* and *Grey* and Lord *Orrery*; and yet ſeveral principal Parts of it are not explained as things new, but referred to as Matters already known and underſtood by the Perſons that were to ſee it, which could only be by previous Conſultations on that Subject; for Inſtance,

In the Firſt Paragraph it is ſaid, 'Let the General *and only one Officer of* '*Note in the Camp* agree upon a Day for Execution,' which muſt have appeared a moſt abſurd Beginning to any Body that had not had ſome previous Diſcourſe or Notice, of ſeveral Officers in the Camp engaged in the Deſign; and the ſame Obſervation will hold, with reſpect to the Paragraphs where Arms are mentioned as provided; which ſhews, at leaſt, that *Layer* believed thoſe Perſons that were to ſee his Scheme, had heard of Arms that *were* provided.

In the Third Paragraph, *George Wilſon* is named in ſuch a manner, as makes it probable he was already known to thoſe who were to have a Sight
‡ B. 11. of this Scheme; and the Committee obſerve that *Layer* ‡ confeſſed to the Lords that he had told Lord *North* and *Grey*, that *Wilſon* was a Fellow who had ſerved in the Army, had a general Acquaintance, and was fit to be employed if his Lordſhip would make uſe of him; to which the ſaid Lord replied, that when he had Occaſion he would employ him.

In the Thirteenth Paragraph of the Scheme it is ſaid, 'Let the General 'order four of *the Half-pay Captains*,' without any farther Deſcription; which ſhews that *Layer* thought thoſe to whom his Scheme was to be communicated, knew already of Half-pay Officers that were engaged, agreeably to
* B. 38. what Lord *North* and *Grey* had * told him, that moſt of the Half-pay Officers were well inclined.

In the Nineteenth Paragraph, he allots part of the Execution of the Deſign to *the Duke's Bargemen*, without any other Addition; which is a manner of Expreſſion no one would have uſed in a Paper to be ſhewn to Perſons, who were entire Strangers to the Affair.

Layer being in the Courſe of his Examination deſired by the Committee, to explain, by what Services or Merit on his Part, the Shyneſs, which he would have it believed, the Pretender expreſſed towards him at his firſt coming to *Rome*, and the little Acquaintance he then had with Perſons of Diſtinction at home in the Pretender's Intereſt, came ſoon after to be changed into ſo great a degree of Confidence both at *Rome* and here, that he ſhould be truſted with negotiating Blank Receipts, under the Pretender's own Hand, for unlimited Sums; he told the Committee, that during his Stay at *Rome*, he contracted a Friendſhip with Sir *William Ellis*, who is a Servant of the Pretender's, and that at his leaving *Rome* he ſettled a Correſpondence by Cypher with the ſaid *Ellis*, and acquainted him from time

to

to time how the Pretender's Affairs went on here; but the Committee obſerve, that this general Anſwer does by no means account for the Terms of Thankfulneſs and Reſpect, with which *Ellis* * writes to him from the Pretender, nor lay a ſufficient Foundation for his being admitted to ſo particular a Truſt. He ſaid that in the Courſe of his Correſpondence he writ to *Ellis* that he had got acquainted with *Burford* and *Symms* (by the firſt of which Names he meant Lord *Orrery*, and by the latter Lord *North* and *Grey*) and that if he had but Blank Receipts, under the King's (meaning the Pretender's) own Hand, he believed he could raiſe a conſiderable Sum of Money upon them, and put the Pretender's Affairs in a great Forwardneſs, by engaging a conſiderable Part of the King's Army in the Pretender's Intereſt, with the Money ſo raiſed. That he did not name any particular Sum to *Ellis*, but hoped himſelf to have raiſed Twenty Thouſand Pounds by this Method. He ſaid he received from *Ellis* only the ten Receipts taken among his Papers at Mrs. *Maſon*'s, that he received them at different times by the Poſt, and that the firſt of them came to his Hands the latter End of *July* laſt. He ſaid farther, he intended to have tried to put off theſe Receipts among the *Norfolk* Gentlemen named in the Liſt which he gave to the Pretender, but that he never had ſpoke to any of them on this Subject, nor received any Aſſurance from them.

*B. Y. 38. 40. 41.

Being asked by the Committee whether he had ſhewn theſe Receipts to any other Perſons, or had had any Diſcourſe with any Body about raiſing Money this way, he ſaid, he believed he had mentioned to Lord *North* and *Grey* and Lord *Orrery* his having ſuch Receipts in his Poſſeſſion, and that the ſaid Lords told him, they believed they would be of little Uſe, for that People would ſcarce venture to keep ſuch Receipts by them, or to have them in their Cuſtody, or Words to that effect.

The Committee take notice that when he was examined before the Lords, he prevaricated in relation to the Cypher received from Sir *William Ellis*, which he ſaid was an old Cypher, in uſe before the *Preſton* Rebellion; but being ſhewn the Names of ſeveral Perſons in that * Cypher, with the Addition of their Employments, which they did not enjoy at the time of that Rebellion, nor ſome of them till very lately, he ſaid that he applied to *Plunket*, for ſuch Names as were not in the old Cypher; tho' the Committee obſerve, that the whole Cypher is in the ſame Hand with the Letters he owned he received from *Ellis*, and that the Perſons deſigned by late Employments are not added or interlined, but placed in their Alphabetical Order in the Body of the Cypher. Being asked by the Committee, whether he had ſeen or knew of any other Cyphers, he anſwered in the Negative, yet they obſerve that in the || Letter from Sir *William Ellis* dated the 1ſt of *October*, he is deſired to make uſe of a Pattern of Lace of Mrs. *Kinders*, (which Name he owned to the Lords to mean Mrs. *Hughes*, Nurſe to the Pretender's Child) Sir *William Ellis* having loſt or miſlaid his own. Now the Word Pattern in *Ellis*'s Cypher denotes Cut-Paper, which ſhews that *Layer* was privy to another Cypher of that kind, in uſe among the Pretender's Agents.

* B. Y. 3.

|| B. Y. 39.

He likewiſe denied his knowing any fictitious Names made uſe of by the Pretender or his Agents for carrying on their Correſpondences, except thoſe mentioned in his Examinations before the Lords; yet afterwards, upon being asked by the Committee, who was meant by *Joſeph* in *Dillon*'s * Letter to *Plunket*, he confeſſed, that he knew *Joſeph* was one of the Names made uſe of to denote the Pretender.

* B. 24.

The Committee farther obſerve, that the Accounts he has given, do by no means clear up ſeveral Paſſages in Sir *William Ellis*'s Letters, particularly one in the § Letter of the 30th of *January*, in which *Ellis* ſays, 'That 'Layer having read over ſeveral times the Paper he ſhewed him, and having a good Memory, *Ellis* does not think it neceſſary to ſend a Copy of it.

§ B. Y. 38.

Layer being queſtioned by the Committee about the Liſts of Names taken at Mrs. *Maſon*'s, ſays he employed *George Wilſon* and Dr. *Murphey* to enquire

enquire into the Characters of Officers and Soldiers, and that he received moſt of the Liſts from *Wilſon*, who told him, he believed if the late Duke of *Ormond* were to come over, and Lord *Cadagon* were ſhot, the Soldiers mentioned in thoſe Liſts, would readily joyn *Ormond* in favour of the Pretender.

That *Wilſon* made moſt of the Marks againſt the Names, to explain what Men might or might not be confided in; from which Circumſtance your Committee obſerve, that there were Perſons in thoſe Liſts, whom the Pretender's Friends could not confide in. He told the Committee, that
*B. Y. 15. *Roath* or *Roach* in the * Liſt N° 15, againſt whoſe Name is ſet 1000 is one whom he does not know, but that *Murphey* told him the ſaid *Roath* or *Roach* was a Perſon of great Intereſt in *Staffordſhire*, and able to raiſe a
‡ B. Y. 11. Thouſand Men. That the ‡ Paper N° 11. at the bottom of which is writ *Enquire of North and Grey*, was a *Memorandum* for enquiring of the ſaid Lord whether he knew Cornet *Redding* in the Service abroad.

*B. Y. 14. Being ſhewn the two Liſts endorſed * *Briquett*'s Liſt, and † Lord *Yar-*
†B. Y. 18. *mouth*'s Liſt, he ſays *Briquett* is an eminent Tobacconiſt in the City, that the ſaid two Liſts only contain Names of a Jury for a Relation's Cauſe, but that he intended to ſhew thoſe two Liſts to Lord *Orrery* and Lord *North* and *Grey*, as containing an account of Men to be raiſed for the Pretender's Service, in order to magnify to thoſe Lords the Number of the Pretender's Friends.

Being asked by the Committee, what was the Occaſion of his taking away his Papers from Mrs. *Maſon*'s, when he went down to *Epping*, and what Papers he at that Time took out; he ſaid he only took out a Paper containing a Tranſcript of the Prince of *Orange*'s Declaration, and ſome other *Memorandum* Papers. He farther added, that he was to have gone to Lord *North* and *Grey*'s to Dinner the Day that he was taken up, and that he ſent his Servant to the ſaid Lord's, to let him know he was arreſted for High Treaſon, that his Lordſhip might not be ſurpriſed at his not coming, and likewiſe that his Lordſhip might provide for his own Security; and be-
‡ B. 11. fore the ‡ Lords he ſaid, that he thought it reaſonable to ſend this Notice to Lord *North* and *Grey*, apprehending that the Government would ſeize the ſaid Lord immediately, on Account of what had paſſed between his Lordſhip and him.

It appears to your Committee, that Lord *North* and *Grey* did, in purſuance of this Meſſage from *Layer*, endeavour to provide for his own Security, by making his Eſcape. *Layer* ſent that Meſſage to Lord *North* and *Grey* on *Tueſday* the 18th of *September*, the Day that he was taken into Cuſtody; and *Hugh Floyd*, his Lordſhip's Servant, who attended him to
* B. 18. *Portſmouth*, * has declared, that Lord *North* and *Grey* came to Town from *Epping* on *Wedneſday* the 19th of *September* (which was the Day after his receiving this Meſſage from *Layer*) That his Lordſhip did not go to his own Houſe, but to the *King*'s Arms Tavern in *Paul*'s Church-yard, and there diſmiſſed him, *Floyd*, with Orders to meet him at four in the Morning on the *Friday* following, over-againſt St. *James*'s Church in *Piccadilly*. That his Lordſhip came at the Time and Place appointed, in a hired Coach and Six, without Servants, and ordered the Coachman to drive on to *Kenſington*, and then to *Brentford*, and ſo on from Town to Town, and bid him, *Hugh Floyd*, have nothing to ſay to any Body, nor take any Notice that he was travelling with his Lordſhip, ſo that in the whole Journey to *Portſmouth*, he remembred no Town but *Kenſington*, *Brentford* and *Egham*. That the ſecond Morning his Lordſhip proceeded on his Journey, with hired Saddle Horſes, without Boots, with a Guide, and ſeveral other minute Circum-
* B. 18. ſtances, which may be ſeen in the * Examination of *Hugh Floyd*, and § o-
§ B. 13—17. thers, in relation to his Lordſhip's Journey to the *Iſle of Wight*, and to the manner of his endeavouring to eſcape from thence; which ſerve to ſhew the Precipitancy of his Lordſhip's Flight, and of what Importance he thought it to take Advantage as ſoon as poſſible of the Notice given him by *Layer*.

Layer

Layer being asked by the Committee from whom he received the * Names found in his own Hand-writing among his Papers, *viz.* * B. Y. 10.

Digby. —— *Dillon.*
Orrery. —— *Burford.*
Regent. —— *Steele.*
Tories. —— *Tanners.*
Wiggs. —— *Waggs.*
Rogers. —— *Plunket.*

ſaid, the Names of ſome Perſons, whom he had Occaſion to mention in his Letters to Sir *William Ellis*, not being inſerted in the Cypher he had from *Ellis*, he applied to *Plunket* now in Cuſtody, to know by what Names he ſhould denote thoſe Perſons, and that *Plunket* gave him the ſix fictitious Names above-mentioned; which Names the Committee find frequently repeated in *Plunket*'s Letters and Papers. Being asked if *Plunket* ever explained to him who were meant by *Burford*'s Club (an Expreſſion which is often uſed by *Plunket* in his Letters to *Dillon*, as will be obſerved in its Place) he ſaid, that *Plunket* had told him, it was an Appellation made uſe of by the Pretender and his Agents, to denote a Club of Tory Lords and others, of which Club Lord *Orrery* was Chairman. That *Plunket* had named to him ſeveral Perſons of Diſtinction, as Members of that Club, whoſe Names *Layer* repeated to the Committee, as contained in his † Examination, annexed to this Report. But the Committee think it a Juſtice due to ſeveral of the Perſons named by *Layer*, to obſerve that the Matters aſſerted of *Burford*'s Club in *Plunket*'s Letters, ſeem utterly inconſiſtent with the known Characters of ſome of thoſe Perſons. † B. 38.

Layer being asked by the Committee, whether he ever was employed by *Plunket* to tranſact Buſineſs with this or any other Club, in *Plunket*'s Abſence (which appears to the Committee to be aſſerted in ‡ one of *Plunket*'s Letters) he abſolutely deny'd it, but admitted that he went often to viſit Lord *Orrery*, and had frequent Converſations with him relating to the Pretender's Affairs, and the Neceſſity of foreign Aſſiſtance. And that Mr. *Swortfegger*, Lord *Orrery*'s Secretary, came to him once and told him, that Lord *Orrery* had left a Note in Writing, that if *Layer* came to Town, he ſhould come down to Lord *Orrery*'s in the Country, which Invitation he underſtood to be with an Intention of their diſcourſing more at leiſure about the Pretender's Affairs, having never had any Buſineſs with Lord *Orrery* in the way of his Profeſſion, nor any other private Buſineſs, that could give Occaſion to ſuch a Meſſage; but that he did not go down at that Time. ‡ C. 61.

The Committee obſerve, that a § Paper of *Memorandums* was taken in the Book-Caſe of *Swortfegger*, Secretary to Lord *Orrery*, which he declared to the Lords on his Examination, to be Lord *Orrery*'s own writing, in which this Meſſage to *Layer* is contained, and *Swortfegger* * owned, that he delivered this Meſſage to *Layer*, and that he had ſometimes ſeen *Layer* at his Lordſhip's Houſe. § B. 35. * B. 35.

Layer being ſhewn by the Committee a ‡ Letter taken among his Papers ſigned *J. Plunket*, and dated the 8th of *November* 1720, owned that he received that Letter in *Norfolk* from *Plunket* now in Cuſtody, that it relates to the Pretender's Affairs, that by *Plunket*'s *Friend* in the ſaid Letter is meant, as he believes, *Dillon*, and by his *Law-ſuit*, the Pretender's Cauſe; in which Senſe the Committee find the Word *Law-ſuit* frequently made uſe of in others of the intercepted Letters. *Layer* farther owned, that *Plunket* gave his Wife a Letter of Recommendation to General *Dillon*, when ſhe went to *Paris*, which Letter was ſigned *Rogers*. ‡ B. 33.

Being asked by the Committee, whether *Plunket* had any Conferences with the Pretender or his Agents, during their Stay at *Rome*, or had owned

to him his being employed by the Pretender in *England*, he ſaid that *Plunket* had two private Conferences with the Pretender, and converſed often with *Francis Kennedy*, Secretary to the Pretender, and with others of his Agents at *Rome*; That *Plunket* has frequently owned to him, that he was employed in the Pretender's Affairs, but never explained to him by which of the Pretender's Agents particularly, and that he *Layer* never opened himſelf to *Plunket* in relation to the Pretender's Affairs, after their Return from *Rome*.

* C. 61. 62. 65. † C. 61. Yet the Committee obſerve, that *Plunket* in his * Letters to *Dillon* ſpeaks frequently of himſelf as privy to *Layer*'s treaſonable Tranſactions, and grounds his † Recommendation of Mrs. *Layer*, on his Knowledge of her Husband's Merit and Induſtry in the Service of the Pretender.

They likewiſe obſerve that *Layer* owns he received the Names of *Digby*, *Burford*, *&c.* from *Plunket* ſince his Return from *Rome*, which they think plainly implies, that *Plunket* and he were privy to each other's treaſonable Correſpondence.

The ſeveral Particulars above-mentioned contain the Subſtance of what *Layer* confeſſed on his Examinations before the Lords and before your Committee; and after this long Account given by him, in which there appear ſo many and ſuch convincing Proofs of the Conſpiracy in general, your Committee think it proper to obſerve, that though he affected a great Openneſs and Frankneſs, when ſuch Queſtions were put to him as tended only to a general Diſcovery, to accuſe himſelf, or ſuch as he knew were eſcaped and fled out of the Kingdom, yet when ſuch Queſtions were put to him, as he apprehended might affect or diſcover any others of the Conſpirators, he always gave Anſwers with great Shyneſs and Reſerve; and this Care to ſay as little as poſſible that might affect others in a criminal Way, joined with a Deſire to ſeem candid and ingenuous, often produced the Inconſiſtencies and Contradictions, upon which the Committee have thought it their Duty to make the foregoing Obſervations.

Your Committee will now proceed to lay before You what they have been able to collect from the Papers and Examinations of *John Plunket*, whoſe treaſonable Practices and Correſpondences, as has been obſerved before, appear to be ſo cloſely connected with thoſe of *Layer*, that they give great Light and Confirmation to each other.

The Committee obſerve from a careful Peruſal of the Letters and Cyphers ſeized at *Plunket*'s Lodgings, that he not only of late, but for many Years paſt, has been employed in carrying on ſeveral treaſonable Correſpondences with Perſons of high Rank and Diſtinction abroad, that a very great Share of Confidence has been placed in him by the Pretender, and ſeveral of the moſt conſiderable Agents for him, and that he has been a principal Actor in the late horrid Conſpiracy, and too much, as they have Reaſon to believe, concerned in the blackeſt part of it; and though the Evidence againſt him, in ſeveral Particulars, is moſt full and undeniable, yet his Behaviour on his Examination was ſo hardened and obſtinate, and attended with ſuch bare-faced Prevarications and Falſhoods, that the Committee are very much confirmed in the Opinion of his Guilt, from the Pains he took to deny with ſolemn Imprecations the moſt evident Truths.

‡ B. 11. § B. 38. *Layer* ‡ confeſſed to the Lords, that *Plunket* recommended *Wilſon* to him as a Man of Integrity, that *Plunket* went by the Name of *Rogers* in *Italy* and ſince, and § ſigned the Letter which he gave Mrs. *Layer* for General *Dillon*, by the Name of *Rogers*. But the Committee obſerve, that *Layer* let them remain in the Error of believing that *Plunket*'s Chriſtian Name was *James*, 'till the Queſtion was put to him, on his ſecond Examination, in ſuch a Manner, that he found the Committee was already appriſed of his true Name, which he then owned to be *John*. He farther owned, as has been obſerved above, that *Plunket* received a Letter under the Pretender's own Hand at *Rome*, was twice in private Conference with the Pretender,

tender, converſed with *Kennedy* and other Agents of the Pretender, had aſſured him, *Layer*, of a good Reception at *Rome*, was kindly ſpoken of by the Pretender, had owned to *Layer* his being employed in the Pretender's Service, and his correſponding with *Dillon*, writ to *Layer* in *Norfolk* in relation to the Pretender's Affairs, and gave *Layer* fictitious Names for *Dillon*, Lord *Orrery*, the Regent, *&c.* and among the reſt the Name of *Rogers* to denote him *Plunket*, which fictitious Names the Committee find all of them frequently uſed in *Plunket*'s Papers.

It appears farther to the Committee from * Depoſitions upon Oath of *Matthew Plunket*, that *John Plunket* came to him in *July* laſt from *Layer*, to deſire him to meet *Layer* at the *Italian* Coffee-houſe in *Ruſſel-Court*, and named to him the ſame Perſons, as ready to head an Inſurrection, who were at ſome other time named to the ſaid *Matthew Plunket*, by *Layer*, on the ſame Occaſion. * C. 42. 43.

That he ‡ farther ask'd *Matthew Plunket*, whether he was well acquainted in the Army among the Soldiers, to which he replied, he knew many of them that had been with him in *Spain* and at *Preſton*. That *John Plunket* then told him, he came from Mr. *Layer*, and under the Arch going into *Drury-Lane* deſired him to pick out as many Serjeants as he knew in the Guards to recommend them to Mr. *Layer*. That the next time he ſaw *Matthew Plunket*, which was in two or three Days, he invited him to his Chambers, and there told him Mr. *Layer* was a very good Man, and the only one he could depend on to do him Service; That the Deſign on which he, *Matthew Plunket*, was to introduce the Soldiers to *Layer*'s Acquaintance, was to ſerve the Pretender by diſciplining the Mob, who were to riſe in his Favour. And that all the Tranſactions of *John Plunket* with him *Matthew Plunket*, were, to engage him in Perſon, and by his Acquaintance among the Soldiers, to ſerve the Pretender: that *John Plunket* meeting him afterwards in *Covent-Garden*, asked him what he had done, to which he replied, he went on very well, and *John Plunket* bid him go and tell Mr. *Layer*. ‡ C. 44

Matthew Plunket farther depoſes, that *John Plunket* told him, the Buſineſs (meaning the Invaſion and Rebellion) had been done before, but that the *French* Ambaſſador wrote to the Regent, and the Regent wrote it to King *George* (or words to that effect) and it was upon that account the Army was ſent to Camp.

Dr. *Blackerby Fairfax* has † depoſed upon Oath, that being in Company with *Plunket* and one *Jefferyes*, *Jefferyes* among other Diſcourſe ſaid, Plunket *give the Doctor a Commiſſion*, adding, Plunket *has Commiſſions*, which *Fairfax* underſtood to mean Commiſſions from the Pretender; but that *Plunket* anſwered, *the Doctor does not wear a Sword*. † B. 36.

The Committee obſerve, that among *Plunket*'s Papers was found a large § Cypher of Names with fictitious Names over-againſt them, * ſworn to be all in *Plunket*'s own Hand-writing, which Cypher tallies with, and explains an original ‡ Letter of the 23d of *July* 1722, directed to Mr. *Digby* at *Paris*, and ſigned *J. Rogers*, which was ſtopt at the Poſt-Office, and is likewiſe ‖ ſworn to be *Plunket*'s Hand-writing. And ſeveral other Letters directed to *Digby*, and ſigned *J. Rogers*, having likewiſe been opened and copied at the Poſt-Office, and then ſent forwards, the Clerks who were employed in copying them have ſworn, that to the beſt of their Memory and Belief, the Originals of the ſaid Letters were all writ in the ſame Hand with that of the 23d of *July*, which was ſtopped, and is ſworn to be *Plunket*'s Hand-writing; and the ſaid Copies of Letters, treat of the ſame Matters as the other, and contain the ſame fictitious Names which are found in the Cypher ſworn to be in *Plunket*'s Hand-writing. § C. 51. * C. 47. 72. ‡ C. 62. ‖ C. 47. 72.

The Committee are informed, that it was thought proper to ſtop but one of the original Letters from *Plunket*, and to ſuffer the others to go on, becauſe it was judged that one was ſufficient to diſcover the Writer, and that

that the permitting the Correſpondence to be continued, might help the Government to farther Lights in this Affair.

The Committee likewiſe obſerve, that there was found among his Papers
* C. 54. an * original Letter ſigned *Digby*, dated the 20th of *May* 1722, which is ſworn by the Clerks of the Poſt-Office to be the ſame which they opened and took a Copy of, and which was directed to Mr. *James Rogers*, at Mr. *Arthur*'s Banker in *London*, tho' the Direction is ſince torn off. From this Direction your Committee obſerve, that his Chriſtian Name was diſguiſed as well as his Surname. The Receipt of this Letter is acknowledged in
† C. 57. the † Copy of one to *Digby* ſigned *J. Rogers*, and dated the 21ſt of *May O. S.* 1722.

The Committee obſerve that the original Letter ſigned *Digby*, is in the
‡ B. 24. ſame Hand with ‡ another ſigned *Dixwell*, found alſo among *Plunket*'s Papers, and owned by *Layer* to be the very Letter ſhewn him by *Plunket* at *Antwerp*, as from General *Dillon*; that the Letter ſigned *Digby* is alſo in
* C. 56. the ſame Hand with * another Letter ſigned *A. D.* and directed to *Robert Dillon* Eſq; which, as your Committee are informed, was taken on one *Blunt* a Popiſh Prieſt coming over from *France*, and owned by *Blunt* to be from General *Dillon* to his Nephew. And the Committee farther obſerve, that theſe three Letters ſigned *Digby*, *Dixwell* and *A. D.* are in the ſame
§ C. 53. Hand with § another ſigned *C. Howell*, found alſo among *Plunket*'s Papers,
|| C. 51. which Name of *Howell* is explained in *Plunket*'s || Cypher to mean *Glaſgow*, whom the Committee ſee Reaſon to believe to be *Chriſtopher Glaſcock*, an *Iriſh* Officer in *Dillon*'s Regiment, who appears to be employ'd by *Dillon* in writing the treaſonable Letters ſigned by *Dillon* himſelf, as well as in writing others of the ſame Kind, ſigned by fictitious Names belonging to him *Glaſcock*.

† C. 61. The Committee obſerve, that in the † Copy of the Letter ſigned *J. Rogers* directed to *Digby*, and dated the 5th of *July* 1722, the Perſon who writ that Letter, ſays, that his Fellow-Traveller's Wife parted hence the Day before for *Paris*, and that he gave her a Letter to him, *Digby*, which
‡ B. 38. agrees with *Layer*'s ‡ Confeſſion that *Plunket* did give Mrs. *Layer* a Letter of Recommendation to *Dillon*, ſigned *Rogers*, and that he received from *Plunket* the Name of *Digby* to denote General *Dillon*, which Name was
* B. 10. alſo * confirmed to *Layer* by Lord *Orrery* to mean *Dillon*. But that *Dillon* went by the Name of *Digby* is put paſt all doubt, by a Diſcovery made by Mr. *Crufurd*, his Majeſty's Reſident at *Paris*, who being ordered to diſcover the Perſon meant by that Name, made uſe of the following Con-
|| A. 31. trivance, mentioned thus in his own || Letter.

'I have juſt now found out, who Mr. *Digby* is. I folded up a Paper 'in the Form of a Letter and ſealed it, and directed it to Mr. *Digby* at '*Paris*, then wrapt it up in a Piece of waſte Paper with a Memorandum 'in it, to be informed at Mr. *Waters*'s Banker in *Chriſtine* Street, in what 'Part of *Paris* Mr. *Digby* lived; I gave it thus made up to a ſharp young 'Fellow who ſpeaks both *French* and *Engliſh*, and ordered him to go 'booted and a little dirted to Mr. *Waters*'s, to open before him the ſham 'Letter and read his Memorandum, and to ſhew him the Direction of 'the Letter, and to deſire him at the ſame time to ſend ſomebody with 'him, to conduct him to the Place where it was to be delivered; that as ſoon 'as he ſhould come to the Door, where he was to deliver it, he ſhould pre-'tend to have left a Packet at Home, and making as if he would go back 'to fetch that Packet, he ſhould ſlip away from the Perſon who ſhewed 'him thither. The thing ſucceeded better than I expected, for *Waters* was not at home, and my Man acted his part ſo well, that *Waters*'s 'chief Book-keeper, without giving himſelf the trouble of going, wrote 'the Direction for him upon my Sham Letter, in the manner your Ex-'cellency will ſee in the encloſed. The Book-keeper was very deſirous to 'have the Letter in order to deliver it himſelf, but my Man inſiſted to

deliver

'deliver it with his own Hand, and anſwered boldly to ſome Queſtions, 'which the Book-keeper asked him, pretending he was to return the next 'Day for *England*.' The Direction writ by Mr. *Waters*'s Book-keeper under the Name of *Digby* was *A Monſieur Dillon, Rue Colombier a l'Hotel d'Holande*, which, as your Committee are informed, is the ordinary Reſidence of Lieutenant-General *Dillon*.

Upon this Diſcovery * Notice was ſent from *France*, by *Dillon* and his Agents, to his Correſpondents in *England*, to forbid them making uſe any more of that Fictitious Name, as ſhall be more fully taken notice of hereafter in this Report. * E. 58. D. 38.

Notwithſtanding all this Evidence of *Plunket*'s correſponding with *Dillon*, when he was examined † he denied his knowing General *Dillon*, or his having ever exchanged a Letter with *Dillon* or his Secretary in his Life, he denied the Letter to *Digby* of the 23d of *July*, ſtopped at the Poſt-Office, and the Cypher found at his Lodgings to be his own Hand-writing, he denied the Receit of the Letters from *Howell*, *Dixwell* and *Digby* found among his Papers, but owned he had once received a Letter from one *Farelly* a Popiſh Prieſt, formerly Governor to the Duke of *Berwick*'s Children, ſigned by the Name of *Digby*, and relating to Stocks of *Nicholas Wogan*'s and others. The Committee obſerve, that in this prevaricating Anſwer he was labouring to account for the Meaning of the Word *Stocks*, which is mention'd in the Letter from *Digby*, but will be ſhewn in the Sequel of this Report, to be meant in a very different Senſe from its natural Import, and to mean the Conſpiracy only; and in *Plunket*'s own ‡ Cypher the Fictitious Word, *Brokers*, is explained *Agents*. Upon preſſing him farther to ſee if he would own the Correſpondence with *Dillon*, and acknowledge the Letters the Committee had ſuch full Evidence were his, they found that in order to avoid the owning it, he run himſelf in ſuch an evident Abſurdity and Inconſiſtency, as appears to them a ſtrong Argument of his Guilt. † C. 73. ‡ C. 51.

‖ He affirm'd the Cypher (which is ſworn to be his own Hand-writing) to belong to one *Hugh Thomas*, formerly of the Herald's Office, who had lodged in the ſame Houſe with himſelf; that he had heard this *Hugh Thomas* own in Company with *Neynoe*, that he correſponded with *Dillon*; that *Hugh Thomas* went by the Name of *Rogers*, and that he *Plunket* found this Cypher and ſeveral Letters directed to *Rogers*, among *Hugh Thomas*'s old Books and Papers. Being asked whether *Hugh Thomas* ever ſigned *Plunket*, he ſaid, not to his Knowledge, and then he endeavoured to impoſe on the Committee, by telling them his own true Name was *Pluckneit*. Being asked what was become of this *Thomas*, he ſaid, he had been dead a Year and a Half, and that he *Plunket* could not keep him alive. But the Committee obſerve, that the Original Letter to *Digby*, ſigned *J. Rogers*, is dated the 23d of *July* laſt, and yet is in the ſame Hand with that Cypher, which he pretends to be the Writing of a Man, who has been dead a Year and a Half. They obſerve likewiſe, that the Letter from *Digby* directed to *Rogers* is dated the 20th of *May* 1722, and that moſt of the Letters directed to *Rogers* (which *Plunket* pretends were writ to *Hugh Thomas*) had the Name of *Rogers* blotted out, and that of *John Plunket* writ over it, and yet he owns, he never knew, that *Thomas* went by the Name of *Plunket*; beſides which it is notorious, that *Plunket* himſelf went by the Name of *Rogers* in *Italy*, and *Layer* has * owned not only that *Plunket* went by that Name, but that he ſigned Mrs. *Layer*'s Letter of Recommendation to *Dillon*, by the Name of *Rogers*, and alſo gave him *Layer* the Name of *Rogers* to denote himſelf, at the ſame time that he gave him the Name of *Digby* for General *Dillon*. ‖ C. 73. * B. 10. 38.

Your Committee are of Opinion, that theſe Circumſtances laid together leave no room to doubt but that *Plunket* writ and received the Letters abovementioned; the Contents of which will be explained in their Place.

* C. 49. † C. 50. *Plunket* being ſhewn a * Letter without Direction, ſigned *N. Wogan*, enclоſing a † Cypher, which is called in the Letter the Duke of *Berwick*'s Key, he ſaid, this Letter and Cypher likewiſe belong'd to *Hugh Thomas*, who, he ſaid, correſponded with the Duke of *Berwick* about getting Subſcriptions to a Book; which matter, the Committee obſerve, neither needed any Cypher, nor could well be treated of by the help of that. They likewiſe take Notice, that *Plunket* owned the receiving a Letter from *Digby* in relation to the ſaid *Wogan*'s Stocks, and that *Wogan* is in-

‡ C. 51. ſerted in *Plunket*'s own ‡ Cypher by the Name of *Xoland*, which Circumſtances make it probable he did correſpond with *Wogan*.

There is one farther Particular relating to this Cypher, which the Committee think it proper to remark to the Houſe, which is, that *Plunket* while he was in Cuſtody, deſired a certain Book might be brought to him from his Lodgings, but the Meſſenger's Wife, ſearching

‖ C. 49. the Book before ſhe delivered it, has ‖ depoſed upon Oath, that ſhe found in it this Letter from *N. Wogan*; and as the Committee are informed, that moſt of his other Cyphers and Papers were found hid in the Leaves of his Books, they think it probable, that he ſingled out this Book, in hopes of recovering and deſtroying the Cypher that ſerves to explain his Letters; the Contents of which the Committee will now proceed to lay before the Houſe, and to avoid Repetition of Names, where-ever they can, will make uſe of the real Names found in his Cypher, inſtead of the fictitious ones, by which they are expreſſed in his Letters annexed to this Report.

* C. 41. † C. 51. Among his Papers was found the * foul Draught of a Letter, dated *March* the 22d 1721, and directed to Mr. *Jackſon*, which in his own † Cypher is explained the Pretender. In this foul Draught (which is ſworn to be his Hand-writing) are the following Paſſages.

'I look, Sir, on your Law Suit to be in ſuch a forwardneſs, that a 'ſpeedy and happy *Replication* muſt inevitably enſue; the *Woggs* as well 'as the *Tanners* (which Names he explained to *Layer* to denote the 'Whigs and Tories) ſeem convinced that nothing leſs can redreſs their 'Ruin; nay the latter is apprehenſive the former will compliment you 'with it on your own Terms, in order to engroſs your Favour for the 'future. The *Precepts* my Friend and I gave in lately, have contributed 'much to this Emulation; we have more to give in, and if they im-'prove them as they have the former, you will have a good game on't. The Words *Replication* and *Precepts* are not found in his Cypher, but the Senſe of the former may eaſily be gueſſed at.

He afterwards adds; 'The Gentleman I mentioned to you formerly, is 'come out of the Country, with Inſtructions to wait on you, and ten-'der you their Service; he offers to bear my Expences if I go with 'him; as I take it that my going will be of more uſe than my ſtaying

‡ B. 23. 'now, I believe I ſhall accept of his Offer.' In ‡ another foul Draught of the ſame Letter, he ſays (as has been before obſerved) 'There is one 'ſets out from *Norfolk* in a few Days, to let you know the *Tanners* will 'ſtand by you on occaſion, and offers to bear my Expences; ſo that I 'ſhall wait on you, and have the Satisfaction to tell you by Word of 'Mouth what will be acceptable. He carries *the Liſt* with him.' And in

‖ B. 23. ‖ Heads or Minutes of the ſame Letter, he ſays, '*Wag* and *Tanner* will 'equally concur.— My Friend will wait on you to tender *their* Service— '*Our Meſſage* will pin the Basket—— You may have daily Meſſages of 'this kind; you will be courted, 'tis the *Engliſh* way———

The Committee think it unneceſſary to repeat here, how inconſiſtent

* B. 38. † C. 73. theſe Accounts of *Layer*'s Journey are with * thoſe given by *Layer* himſelf, and how ſtrongly they contradict *Plunket*'s bold † Aſſeveration, that he knew nothing of *Layer*'s intending to go to *Rome*, before they ſet out.

Another

‖ Another foul Draught of a Letter was found among *Plunket*'s Papers, ‖ B. 22.
and is ſworn to be his Hand-writing; the Matter of which appears to your Committee very remarkable. It is not dated nor directed, but appears plainly to have been writ the Beginning of the laſt Year, and in it are the following Paſſages. 'I had four of Count *Bothmar*'s Letters ſince my 'laſt to you, Mr. *Burford* had them all, his Clerk gave me to underſtand 'they were ſent to Mr. *Joſ*— This made me not to trouble you. This 'only to wiſh you a happy new Year. I hope it will bring the Law-'ſuit to bear, afore 'twill end; if they would have Courage and Integri-'ty, they may walk *K. George* out afore *Lady-day* next—— (and in another part he ſays, afore *May* come) 'He is weary of them, and thinks no more 'of ſtaying among them. It appears from this Paper, that *Plunket* had conveyed Copies of ſome Letters of Count *Bothmar*'s to Lord *Orrery*, That Lord *Orrery*'s Clerk had given him to underſtand, thoſe Letters were ſent to the *Pretender* (from whence it may be concluded, that either Lord *Orrery* or his Clerk had a direct Correſpondence with the Pretender) and that *Plunket* was privy to ſome Deſign for walking *K. George* out (as he calls it) which Deſign required Courage and Integrity, and was to have been executed either before *Lady-day*, which was during the Elections, or by the beginning of *May*, which was the ſecond Period fixed (as has been obſerved) for beginning the Inſurrection. *Simon Swortfegger*, Secretary to Lord *Orrery*, owned upon his ‡ Examination before the Lords, that he was ‡ B. 35.
acquainted with *Plunket*, and had been in Company with him and *Layer* at Mr. *Aaron Thompſon*'s Chambers. And *Plunket* ‖ owned to the Com- ‖ C. 73.
mittee his being acquainted with *Swortfegger*, and his having been in Company with him and *Layer* at *Layer*'s Houſe, but denied his knowing any thing of the foul Draughts of the Letters above-mentionnd.

Plunket in his * Letter to *Digby* of the 21ſt of *May*, ſays, 'I hope in * C. 57.
'a little time Mr. *Joſeph* (which *Layer* owned to be the Pretender) 'will be the Miniſtry's only Refuge. *Burford* (whom *Layer* declared 'likewiſe to be *Orrery*) and his Club ſeem to think ſo; they will have 'a Finger in the Pye if they can; I know they can come in for a good 'Share in it, if they can have a little Concert and Regulation; there are 'thoſe that will undertake to do the Job in twelve Hours time; a little 'Time will ſhew whether they will give fitting Encouragement; if two 'or three is taken off, no matter how, King *George* will go off by hook 'or by crook, and of courſe the *Lowty* will be for *Joſeph*; this has been 'communicated to your Friends.

What is meant by the *Lowty*, does not appear by his Cypher, but by the Senſe and the Alphabetical Order of the Cypher, it is not improbable but it may mean the Miniſtry.

Whether the Job that was ready to be undertaken on fitting Encouragement, and to be performed in twelve Hours time, relates to the raſh Enterprize for ſurpriſing the City of *London*, which has been already taken notice of, or to the wicked and execrable Deſign for ſeizing and deſtroying His Majeſty's Sacred Perſon, of which Mention is expreſly made in ‖ two ſubſequent Letters of *Plunket*'s, is left to the Conſideration ‖ C. 58. 60.
of the Houſe.

But the Committee, from comparing the Memorandum at the End of the ‡ Paper of Reſolutions, in the following Characters *Diſ. C. W. M.* ‡ BB. 2.
with *the two or three* that are mentioned in this Letter to be taken off, and likewiſe with *Wilſon*'s Intimation to *Layer*, that if Lord *Cadogan* were but ſhot, the Soldiers would declare for *Ormond*, and alſo with *Layer*'s Negotiation about ſeizing Lord *Cadogan*, and with the Paragraph in his Scheme for ſeizing ſome great Perſons at their Houſes, ſee Reaſon to believe, that by the firſt of thoſe Characters is meant *Diſpatch Lord Cadogan*, and by the others, two other Officers of Diſtinction.

In the ſame † Letter of the 21ſt of *May*, *Plunket* takes notice, 'That † C. 57.
'*Johnſon*, an Acquaintance, was taken up the Day before, but had burnt

'his

' his Papers, and ſeemed to be eaſie in the Matter, and adds, I believe ' they will get nothing by him.

Plunket being asked by the Committee, whether he was acquainted with *George Kelly*, alias *Johnſon*, ſaid he knew him by Sight and Coffee-houſe Acquaintance only, that he did not remember his having ever received a Letter from him, and *Kelly* gave the ſame ‡ Account in relation to *Plunket*, yet a ‖ Letter from *Kelly* was found among *Plunket*'s Papers; and *John Malone*, who waited on *Kelly* at his Lodgings, has named *Plunket* in his * Depoſition, as one who often viſited *Kelly* there. And the Committee are ſatisfied, that they were privy to each other's treaſonable Correſpondence, by ſome Paſſages in the † Letters to and from *Kelly*, in which mention is made of *Plunket* by the Name of *Rogers*, as will be ſhewn in its proper Place. *Plunket* concludes his Letter of the 21ſt of *May* with theſe Words:

‡ E. 81.
‖ C. 40.
* E. 14.
† C. 66, 67, 68.

' The Motive of my Journey is over at preſent, my Pocket feels it, ' the Man muſt be fed with Money now and then; the labouring Oar ' will I believe be laid on me.

As he denied the writing theſe Letters, the Committee could not draw from him any Explication of this Paragraph; but comparing it with the other Part of his Letter, where it is ſaid, that a little time will ſhew whether *Burford* (Lord *Orrery*) and the Club, would give fitting Encouragement for undertaking the Job, they think it appears probable, that ſome part in this Job is the labouring Oar referred to, for which he expected to be fed with Money.

‡ C. 58. His next ‡ Letter to *Digby* is of the 31ſt of *May*, in which he ſays, ' he finds the Regent had a hand in keeping K. *George* from going ' abroad, ſo that the Miniſtry will carry on their Game ſafely and leiſurely ' without any Oppoſition whatever from the Club, or any of the Pre-' tender's Friends.' He adds, ' Let them be ever ſo ſanguine, they can ' do nothing as long as the Regent ſtands by the Miniſtry; but ' ſhould *Ormond* come with half a Dozen Regiments only, he would carry his Point, and make K. *George* run for it.' This Paſſage confirms what has been ſet forth above, that the late Duke of *Ormond*'s coming over made a Part of the Original Scheme, and agrees with the ‖ Accounts received from *Spain* of *Iriſh* Soldiers provided there for the Pretender's Service.

‖ A. 28, &c.

Plunket then adds, ' If *Burford* (Lord *Orrery*) and the Club have a mind ' to have K. *George* delivered up to them *he ſhall*, there *are thoſe that* ' *will undertake it, and offer to do whatever required.*' And in his * Letter of the 4th of *July* he ſays, —— ' I can aſſure you, *Deſpair has made ſome to* ' *take a Reſolution to lay violent Hands on K.* George, but there is a Stop ' put to them at preſent; It is not the *Pretender*'s Intereſt, but you can't ' do ſo always; an ill Precedent is dangerous.

* C. 60.

The black and villainous Deſign expreſſed by theſe two Paragraphs, needs no Explication from your Committee, who are ſenſible the Houſe cannot have heard them read, without the utmoſt Horror and Indignation.

He ſpeaks of himſelf in theſe Letters as knowing the Men, who had taken a Reſolution to lay violent Hands on the Sacred Perſon of His Majeſty; and was himſelf ſo far engaged in this execrable Deſign, as to ſay in one of his Letters, If the Club deſire it, *His Majeſty ſhall* be delivered up into their Hands; and in another Letter diſſuades it, not out of any Conſcience or Remorſe for the Crime, but merely for fear the ſame Barbarity ſhould be retaliated on the Pretender; yet this Man ſtill continues ſo hardened and obſtinate, as to renew his Guilt by refuſing to make the leaſt Diſcovery of his Accomplices, or to give this only Reparation and Attonement he is capable of, to a Country which he has been labouring to involve in the greateſt of Calamities.

H

He afterwards * ſays, 'That tho' there ſhould be a Riſing in moſt Parts, if * C. 58.
'the Mob is beat in one Place, the reſt will go Home and be quiet for
'Seven Years more.

His next † Letter is of the 21ſt of *June*: In this he ſays, 'That *Burford* † C. 59.
'and the Club think themſelves ſlighted by the Regent and Miniſtry of *France*;
'and conceive, that the Regent joins with King *George* to be revenged on
'them: That he may have room to repent it early or late; for ſhould the Par-
'liament be broke, and a new one called, he might find himſelf more em-
'baraſſed than he is aware of.' He adds, 'If the Regent ſtands *Neuter*, and
'they will ſoon bring the Law-Suit to bear; ſo far I am ſatisfied of it, that
'4 or 500 Men, and as many Arms, with 1500 *l.* will compleat the Matters
'in a little Time, and give a good Account of King *George* and the Miniſtry.
'The Army want only an Opportunity to do their Duty. This Scheme, if
'duly and diſcreetly managed, will give them an Opportunity to do it. Were
'*we* ſure the Regent would not interpoſe, *we* would take it in Hand forth-
'with.

The Committee make no doubt, but the Houſe has prevented them in ob-
ſerving how exactly this Letter agrees with the ‖ Accounts ſent ſome Time be- ‖ A. 4.
fore from *France*; That the Conſpirators reckoned on great Part of the King's
own Forces; and only deſired the Regent that he would keep himſelf *Neuter*
between the Pretender and his Majeſty. And this Letter appears to have been
writ at the Time, when *Layer*, *Wilſon*, *Murphey* and *Plunket* were labouring to
corrupt the Officers and Soldiers of the Army.

Plunket adds in the ſame Letter, 'If the Regent and Court of *Spain* will but
'ply King *George* with large Demands, and bring the *Czar* down to *Hanover*,
'the Pretender will have a *Carte Blanche* from the Miniſtry and King *George*;
'as alſo from all the reſt of his Friends and Foes: This I take to be the beſt
'and ſafeſt Way, both for the Pretender and his Well-wiſhers.

This Expreſſion of the Pretender's getting a *Carte Blanche* from the King and
Miniſtry, is repeated ſeveral Times in *Plunket*'s Letters; and however extrava-
gant and ill-founded ſuch Suggeſtions were, yet the Committee cannot but ob-
ſerve, that his Repreſentations appear to have met with ſuch a Spirit of Cre-
dulity and Deluſion in the Pretender and his Agents, that not long after he
was vain enough to entertain Hopes of capitulating with His Majeſty for the
Crown, by that traiterous and inſolent Declaration, againſt which both Houſes
have ſo lately expreſſed their juſt Reſentment and Abhorrence.

Plunket's next Letters are of the 4th and 5th of *July*, 1722. in which he C. 60,
has the Vanity to tell *Dillon*, 'That he had been deſired, by ſome leading Mem- 61.
'bers of the then Parliament, to acquaint the Regent's Agent here, that it was
'now in the Power of the Regent and *Spain*, to ſend away King *George*, and
'to ſend home *Mr. Joſ.* with a *bonne grace*, and much to their Advantage; that
'it was only to inſiſt on the Stipulation King *George* had made with them, and
'they would have a fair Pretence to do it.

It appears by other Paſſages, that this ſuppoſed Stipulation relates to the
Ceſſion of *Gibraltar*.

He afterwards gives an Account, 'That he did, both on the 4th and 5th of
'*July*, wait on the Regent's Agent with this Meſſage; and ſays, That as that
'Agent was acquainted with ſome of the Members of Parliament who
'employed him, he gave ſome Attention to him: But the Objections which
'the Regent's Agent made, appear to have been, That the Pretender had not
'the Name of a Man of great Parts or Reſolution; That he had hitherto no
'great Opinion of *Burford* and the Club; and that ſuch a Procedure, on the
'Part of the Regent, would be a Violation of the *bonne Foy*: To which laſt
'*Plunket* replied, That it would be no Breach of their *bonne Foy*, to be grateful
'to thoſe *who were their Deliverers formerly*.' However, *Plunket* ſays, 'He con-
'vinced the Agent, that it was now in the Regent's Power to make the Mini-
'ſtry and King *George* give the Pretender a *Carte Blanche*; and by ſo doing,
'to make the Emperor vomit up what he has now in *Flanders*, without ſtriking
'a Stroke. That the common People, the Country Party, and all the *Engliſh*

'Gentlemen might be brought to join with the Regent in proper Meaſures to 'do it; or, that if the Regent would but ſtand *Neuter*, they would ſoon bring 'the Pretender's Law-Suit to bear independent on any whatever.' He adds, 'That he is ſatisfied the Agent would write theſe Sentiments to his Court; and 'that it is *Dillon*'s Buſineſs to let the Regent ſee he has the ſame Sentiments 'from other People here.

Plunket being examined by the Committee, in Relation to this Letter, * owned, he had frequent Acceſs to one of the *French* Miniſters on private Affairs: and that *Layer* knowing him to be acquainted with him, aſked him, Whether he could not find out, by the Help of that Miniſter, whether the Regent might not be brought into *Tory* Meaſures? And *Stephen Lynch* has † depoſed, That *Layer* told him, Application had been made, either by himſelf, or ſome other Perſon, to one of the *French* Agents here, to the Effect mentioned in *Plunket*'s Letter. However, *Plunket* denied his having ever ſpoke to that Miniſter, in Relation to State-Affairs, or his having writ any ſuch Account to *France*.

* C. 73.

† B. 2.

The Committee, from comparing his Relation of theſe Two Converſations with what he ſays in other Letters, of bringing the *Czar* down to *Hanover*, in order to oblige His Majeſty to withdraw from *England*; obſerve, That the Conſpirators were ſo intent on compaſſing their wicked Deſigns by any Means, that having failed in their Applications for foreign Aſſiſtance, they were now labouring to make *France* and *Spain* inſiſt on the Reſtitution of *Gibraltar*, to throw *Flanders* into the Hands of *France*, and to bring the *Czar* into *Germany*, in Hopes to involve all *Europe* into Confuſion, and thereby to pave the Way for bringing in the Pretender.

|| C. 60, 61.

In the ſame || Letters he tells *Dillon*, 'Now is the Time for the Regent and 'Miniſtry of *France* to ſerve you; if they do not, I can aſſure them, they 'may have Room to repent it: For the Pretender's Friends will find Means to 'get into the Saddle, in ſpight of the Miniſtry and King *George*.

He adds, 'That the Army will not ſtand by the King and Miniſtry, againſt 'the great Bent of the *Engliſh* Gentlemen, the common People, and the Coun-'try Party; who are ſo incens'd againſt the Court, that the leaſt Accident 'would ſurely overturn what they have been doing theſe Seven Years paſt.

He then ſays, 'That his Fellow-Traveller is, and has been, very active 'ſince his coming from his Travels, and is more ſerviceable than thoſe who 'move in a higher Sphere; That he is ſpurring on the Club daily, and has 'made many of them more active in the Law-Suit, than they otherwiſe would 'have been. That his Wife parted the Day before for *Paris*; and that he gave 'her a Letter for *Dillon*; his Fellow-Traveller thinking himſelf entitled to 'it, or any other Civilities *Dillon* could ſhew her, during her Stay there.' He adds, 'Your Friends continue their Preparation, and reſolve to hold them-'ſelves in Readineſs on Occaſion.

The Committee take notice, That theſe Letters were writ juſt about the Time that *Layer* went down to *Norfolk*. And they think the ſanguine Manner in which *Plunket* writes, is in Part accounted for, by what Lord *North and Grey* ∴ told *Layer*, That the Encampment had ſpoiled the Project; but we ſhall have them again. And by his Lordſhip's * ſaying, Be you quiet, ſomething will be done: † If there be a Riſing, you ſhall not want Men, or Money, or Arms. And that theſe Letters and Paſſages make it highly probable, that the Subſtance of *Layer*'s Scheme had not been only ſeen, but approved of.

∴ B. 8.

* B. 38.

† B. 11.

Notwithſtanding the Account which *Plunket* gives, in this and other Letters, of *Layer*'s Proceedings, yet *Layer* denied that he had ever opened himſelf to *Plunket*, in relation to the Pretender's Affairs, after their Return from *Rome*; and *Plunket* affirmed, that he only knew *Layer* by Coffee-Houſe Acquaintance, and never converſed with him but in the Streets publickly.

|| C. 63.

Plunket's next || Letter is of the 23d *July*, the Original of which being ſtopped, and being ſworn to be his own Handwriting, the Committee think it proper to lay the whole before the Houſe, with the Explanation of the fictitious

tious Names taken out of the Cypher, which is ſworn to be his own Hand alſo.

A Monſieur Digby *a* Paris.

Under a Blank Cover to Waters.

July 23d, 1722.

'BY the time this comes to Hand, King *George*'s Agent will arrive there; 'I'm glad on't, becauſe I hope all the Negotiations and Proceedings 'of the Miniſtry and King *George*, will be laid before the Parliament, which 'will be a Means to ſend him to *Hanover*: Though he thinks to bring the 'Country Party to approve of whatever he will propoſe to the Parliament, 'he will hardly even bring the Court Party to do it. He thinks to diſculpe 'himſelf at the Expence of the Dead: This I told ſome of the Parliament-'Men; they ſay 'twon't do for Love or Money. Certain Perſons are forming 'Projects that will diſtreſs the Court of *Spain*, in Caſe of War between *Spain* 'and the Emperor. Count *Bothmar* comes into it by King *George*'s Conni-'vance; 'tis now in *Embrio*; when it comes to Perfection, I ſhall be Maſter 'on't: I gave a Hint on't to the Regent's Agent; he was not a little ſur-'prized at it; they muſt not linger much longer; if they do, the Emperor 'and King *George*, will find Means to diſtreſs the Court of *Spain*, and the Mi-'niſtry in *France*; they muſt haſten the Peace to prevent it.

'My Companion, who has been in the Country this Three Weeks paſt, 'came to Town Yeſterday; he ſeems to be ſure of his Game, *viz.* that 'Mr. *Joſeph*'s Friends will run down the Miniſtry, and King *George*, in a lit-'tle Time, and bring the Law-Suit to bear on their own Bottom, and inde-'pendent of the Regent, or any body elſe. I am reſolved to know nothing 'of their Proceedings; I am for having every Thing laid before the Parlia-'ment firſt, and then every body will ſee, we want the Pretender more than 'he wants us; both Friend and Foe will joyn in any Enterprize that will be 'made in his Favour: Neither will they ever dare upbraid him, if, on any 'Occaſion, he ſhould look aſquint on 'em hereafter. I hinted often, the only 'way to ſpirit 'em up, was to convince 'em the Law-Suit would be brought to 'bear without them, and that, by the Regent and King *George*. The Conſtru-'ction they put upon this, that the former was ſubtil enough to make uſe of 'the Folly of the latter, to play the Game to his own Advantage at our Coſt, 'and that he will govern Mr. *Joſeph*, when here, as he does now King *George*; 'this, or ſome ſuch Imagination, gave them an uncommon Reſolution, and I 'believe they will ſtruggle hard for a Start in the Race of Honour. 'Tis in 'the Regent's Power to make King *George*, the Miniſtry, and the Club, to 'give Mr. *Joſeph* a *Carte blanche*; 'tis incumbent on you to convince him of 'it. I am ſure his Agent here is already, for I gave him this Morning de-'monſtrative Proof, that King *George* deſigns to ſupport the Emperor againſt 'the *French* King and his Coſſ. and that without being ſeen in it.

'I would be glad to know how the Duke of *Berwick* does, and if he conti-'nues there this Summer. I have little to do in Town, ſo I deſign to go to 'the Country for Three Weeks. The Town is dull and empty.

'We hear the *Czar* is in Motion, I wiſh it may be towards *Hanover*, for 'King *George* would ſoon move from his Country Seat here.

'I believe Mr. *Joſeph* will laugh, when he'll hear of the Stratagem I made 'uſe of, to bring his Friends to ſo good Temper of Duty. I hope they will 'keep to it, which is the Wiſh of,

SIR,

Your Humble, Obedient Servant,

JO. ROGERS.

In

† C. 64. In his † Letter of the 16th of *Auguſt*, he ſays, 'The Pretender's Law 'Buſineſs continues in the ſame Plight. My Companion goes on, as he 'thinks, very ſucceſsfully, and is confident he will bring the Buſineſs to bear 'in a little Time.

This Letter was writ Nine Days before *Layer* went down to Lord *North and Grey*'s with *Lynch*.

Plunket ſays in the ſame Letter, 'That the Pretender muſt promiſe the Re- 'gent and Miniſtry of *France* fair, and that he will be a faſt Friend, when in 'his Power, and muſt ſeem to rely more on them, than any here; that this is 'the only Game he has to play at this Time.

‖ C. 65. In his next ‖ Letter of the 23d of *Auguſt*, he ſays, 'That his Friend came 'out of the Country a few Days ago, and told him, that his Clients ſeem now 'to deſpair of bringing the Law Buſineſs to bear this next Term, except the 'Regent were made a Party; that he, *Plunket*, told him, in caſe the Regent 'were applied to in a proper Manner, he might be prevailed on to come into 'proper Meaſures, at leaſt indirectly, and that without Breach of the *bonne* '*Foy* he owes King *George*, or the Miniſtry. He adds, that they (his Friend's 'Clients) are for any Thing but under their Hands; and that if they ſhould 'apply to *Dillon*, or the Regent (as his Companion had told him they ſoon 'would) they might ſafely offer at leaſt to come into their Meaſures, to ſtop 'their Mouths hereafter; and he thinks, with Submiſſion, 'tis pity to hinder 'them from plunging themſelves, as they did before. He adds, That it is in 'the Power of the Regent, and Miniſtry of *France*, to make the enſuing Par- 'liament give the Pretender his own Terms; and that as the *French* King is 'ſoon to be of Age, *he* may do every Thing with a good *Grace*, and *bonne Foy*, 'and ſettle the Pretender ſo, that it will always be in his Power to ſerve him, 'and the Court of *Spain*.

Plunket, who aſſumes to himſelf ſo conſiderable a Part in theſe Tranſactions, being aſked by the Committee, to give ſome Account of his Life and Educa- ⁂ C. 73. tion, * ſaid, that he was born at *Dublin*, and bred up, when a Boy, at the *Jeſuits* College at *Vienna*; that he is a *Roman* Catholick, but not in any Or- ders. And tho' he endeavoured (as has been obſerved above) by his Dreſs, Appearance, and Behaviour, to repreſent himſelf to the Committee as very in- conſiderable, and no ways equal to the Part he was taxed with, yet a great † C. 1, --- 36. Number of † Letters from Perſons of the firſt Quality Abroad, were found among his Papers, in which the Committee obſerve he is treated with great In- ‖ C. 34. timacy and Confidence. And in a ‖ Letter from the Lady *Middleton*, of an old Date, Mention is made of her being to introduce him to the late King *James*'s Queen in *France*; to whom, as he owned to the Committee, he had been introduced. And that the Truſt and Confidence repoſed in him, ſtill ſub- ∴ C. 73. ſiſts undiminiſhed, appears to the Committee, not only by his own ∴ confeſ- ſing, that he did walk and converſe with the Pretender publickly in his Gar- den at *Rome*, but from *Layer*'s Account, that he had Two private Conferences ** C. 69. with the Pretender; and above all, from the ** Letter under the Pretender's own Hand, which he ſhewed to *Layer* at *Rome*, and which has been communi- cated to the Committee, as before-mentioned, in which the Pretender treats him with ſuch Diſtinction, as to charge him not to mention any Thing of Buſineſs to any body, till he himſelf had ſeen him alone; than which, the Committee think a ſtronger and more convincing Proof of Truſt could not †† B. 23. well have been given. It appears alſo by †† foul Draughts of Letters taken C. 41. among his Papers, that he writ directly to the Pretender himſelf.

Mention being made in *Plunket's* Letters, of *Johnſon*, alias *George Kelly*, and ſome Extracts of Letters to and from the ſaid *Kelly* having been re- red to the Committee among *Layer*'s and *Plunket*'s Papers, by which it a- peared to them, that *Kelly*'s treaſonable Correſpondence had a Connexion wit the others, and particularly, that he was privy to ſome of *Plunket*'s Tranſ- actions; your Committee thought that their having a general View of all the

Pa-

Papers relating to the Conſpiracy, might help to illuſtrate and explain the ſeveral Parts of it, in the ſame manner as *Layer*'s and *Plunket*'s Papers mutually confirm and give Light to each other.

For this Reaſon they moved the Houſe to have thoſe Papers laid before them, and to empower them to take ſuch farther Examinations, as might be neceſſary to lead them on in tracing out the Source of the Treaſons enquired into.

Having accordingly peruſed thoſe Papers, and examined ſome of the Perſons principally concerned in them, they now proceed to lay before you the Reſult of that Enquiry.

It appears to them, that *George Kelly*, Clerk, has been of late Years conſtantly employed in carrying on ſeveral treaſonable Correſpondencies and Negotiations between the Pretender's Agents Abroad, and Perſons of great Diſtinction at Home, tending to the bringing in the Pretender with an armed Force, and to the overturning the preſent happy Eſtabliſhment in Church and State.

And here your Committee find themſelves obliged to mention the Lord Biſhop of *Rocheſter*, as principally aiding, directing and employing the ſaid *Kelly*, in the Proſecution of his treaſonable Deſigns.

As *Kelly*'s Correſpondencies ſeem to derive their Weight and Significancy chiefly from his being employed by the Biſhop of *Rocheſter*, your Committee will firſt lay before you the ſeveral Reaſons that induce them to believe he was ſo employed, and the Part which it appears to them the Biſhop has had in this Conſpiracy.

It appears to your Committee, from ſeveral * Informations of *Philip Neynoe*, Clerk, formerly mentioned, 'That *George Kelly*, alias *Johnſon*, frequently 'told him, that the Biſhop of *Rocheſter* held Correſpondencies with the Pre- 'tender, and his Agents: That he, *Kelly*, was employed by the Biſhop, in 'writing for him, and carrying on the ſaid Correſpondencies; that *Kelly* told 'him, the Pretender relied more on Advices from the Biſhop, than from any 'other Perſon; that he had ſeveral times left *Kelly* at the Biſhop's Door, 'when *Kelly* went into the Biſhop's Houſe, and ſtaid there an Hour or Two, 'and upon coming back to him, *Kelly* made Apologies for ſtaying ſo long, 'and told him, he had been writing the Biſhop's Letters, which he al- 'ways apprehended to be the Foreign Correſpondence of the Biſhop with 'the Pretender's Agents; and that *Kelly* told him, the Biſhop never ſuf- 'fered him to take a bit of Paper of the Biſhop's Hand-writing out of the 'Room. * E. 7. —10.

'That he knows Letters were directed to *Kelly*, by the Name of *Moſes* 'Hancock and *Hatfield*; and that he has ſeen at *Burton*'s Coffee-Houſe, a 'Letter to *Kelly* from *Howell*, (whom he takes to be Agent or Secretary to 'Dillon, and employed by *Dillon* in the ſame manner, as *Kelly* was by the 'Biſhop of *Rocheſter*) in which Letter there were Compliments to the Bi- 'ſhop, by the Name of *Naunton*, which Name *Kelley* explained to him to 'mean the Biſhop. That *Kelly* has told him, the Biſhop of *Rocheſter* went 'ſometimes by the Name of *Jones*; that he has likewiſe heard the Biſhop 'went ſometimes by the Name of *Illington*, which laſt he was told by 'Mr. *Carte*, to the beſt of his Memory. That in the Letter which *Kelly* 'ſhewed him at *Burton*'s Coffee-Houſe, Mention was made of *Manſfield*, which 'Kelly explained to him, to mean the late Duke of *Ormond*. That he has ſeen 'ſeveral Cyphers in *Kelly*'s Hands, one in Figures, another of fictitious 'Names, in which laſt, *Carpenters* ſtood for *Scotch Soldiers*, *Sadlers and* 'Sophiſters for *Iriſh Soldiers*, and the like; that he has ſeen *Kelly* make 'uſe of theſe Cyphers, and that *Kelly* with great Freedom owned, 'that theſe Cyphers were for carrying on the Correſpondence with the 'Pretender's Agents. That he had likewiſe ſeen Cyphers in *Carte*'s 'Hands, who was alſo employed in writing Diſpatches to the Preten- 'der's

'der's Agents Abroad. That he, *Neynoe*, had been employed to draw 'up Three ſeveral Memorials to the Regent of *France*, to ſollicit him to 'ſend Forces to the Aſſiſtance of the Conſpirators, the laſt of which was 'in *December*, 1721, and contained a Demand of Five Thouſand Men to 'be ſent to invade theſe Kingdoms; that the Heads of theſe Memorials were 'given him by *Kelly*, and one who went by the Name of *Watſon*, whom he 'took to be the late *Earl Marſhal*.

'That in *March* laſt, *Kelly* brought him the Heads of a Letter, to be 'drawn up with a Deſign of its being intercepted by the Govern-'ment, in order to amuſe them into a falſe Security. That he drew 'up the ſaid Letter in a Paper writ Column-ways; that this Paper was 'brought back to him, corrected by the Biſhop of *Rocheſter*, as he be-'lieved.

Your Committee are informed this Letter was not intercepted, but that a Copy of it was ſent, about that Time, to one of the Secretaries of State, from an unknown Hand.

Neynoe farther declared, 'That the Biſhop of *Rocheſter*, Lord *Orrery*, 'Lord *North*, and Sir *Harry Goring*, were the principal Leaders and 'Directors of the Conſpiracy, which was firſt to have been executed in 'the Spring of the Year 1722, by ſeizing the *Tower*, upon which the late 'Duke of *Ormond* was to have landed in the River; that upon the Diſco-'very of the Plot, and the King's not going Abroad, it was put off for 'ſome Time, but that it was afterwards reſumed to be attempted in the '*Weſt*.' *Neynoe* farther added, 'That *Kelly* aſſured him, the Biſhop 'got Notice of his being to be taken up, ſome Days before it happened; 'and that this Notice was given the Biſhop by one of the Lords of the Coun-'cil; but he afterwards confeſſed (as your Committee are informed) that in this, and other Examinations, he had endeavoured all he could, to create Diffidence and Suſpicions among His Majeſty's Ser-vants.

Theſe Informations of *Neynoe* are contained, great Part of them, in a Paper * E. 7. * writ with his own Hand, and delivered by him to a Committee of Lords † E. 8, 9. of the Council. The other Part is extracted out of † Papers which he dictated at his ſeveral Examinations, which Papers were read to him Paragraph by Paragraph, and agreed to by him before the Lords.

That *Neynoe* was intimately acquainted with *Kelly*, viſited him often, and ſometimes lay at his Lodgings, and thereby had a better Opportu-‖ E. 12. nity of being informed by him, appears from the ‖ Depoſitions of *Ste-*∴ E. 13 *venſon* and his Wife, *Margaret* ∴ *Kelburne*, Landlady to *Kelly*, and *John* ** E. 14. ** *Malone*, Servant to Mrs. *Barnes*, who waited on *Kelly* at his Lodg-ings.

That the Biſhop of *Rocheſter* was acquainted with *Kelly*, invited him to dine with him, ſent his Servants to enquire after his Health, and wrote to him, †† E. 12, 13. appears from †† *Stevenſon*'s and *Kilburne*'s Depoſitions, as alſo in Part from |||| Mrs. *Levett*'s.

||||E. 6. *a*. But what gives the greateſt Weight to the ſeveral Particulars contained in *Neynoe*'s Informations, is, that they are corroborated and ſupported in every material Circumſtance, by ſeveral concurrent Proofs, as will appear from the Sequel of this Report.

* D. 1. *Lancier* has * depoſed upon Oath, that *Skeene*, among other Particulars of the Conſpiracy, told him, that the Biſhop of *Rocheſter*, in Conjunction with the Lord *North and Grey*, had the principal Direction of the Conſpiracy; and that Two Hundred Thouſand Pounds had been raiſed, and put into the Management of the Biſhop of *Rocheſter*, which was called *the Military Cheſt*, and was to be kept together till the Project was put in Execution.

Your Committee are informed, that when the Biſhop was taken into Cuſ-tody, vaſt Numbers of Letters and Papers were found in his Houſe, bearing Date

Date before the Year 1712. but from that Time downwards few of any Conſequence, except theſe which follow:

* One was from the Dutcheſs of *Ormond*, dated *January* 14th, 1721. in which are theſe Words: * D. 5.

'I reſolved to ſend what I received: For tho' it had not happened to belong 'to the Perſon I addreſſed it to, I was ſure it could not be put into better 'Hands.

This Paſſage makes it highly probable, that the Biſhop uſed to receive Letters from Abroad, directed by fictitious Names. Which is ſtill further confirmed by the following Circumſtances:

In the † Cypher which *Layer* owned he received from Sir *William Ellis*, the Biſhop of *Rocheſter* is deſigned by the Name of *Juſtus*. † B.Y. 1.

Neynoe || declared, that in the Letter which *Kelly* ſhewed him from *Dillon*'s Secretary, there were Compliments to the Biſhop of *Rocheſter* by the Name of *Naunton*. || E. 10.

Among the Biſhop's Letters was found one directed to Mr. *Dubois*, not ſigned with any Name, nor dated from any Place. It was in the following Words:

SIR,

'FORGIVE my Silence. You eaſily conceive the Difficulties I am under in that Regard. I write this only to aſſure you of my ſincereſt 'and unalterable Reſpect; and refer you to the worthy Bearer for News, and 'for every Thing, which otherwiſe I ſhould have found *ſome Way or other* of 'writing to you my ſelf. I have heard nothing from you ſince the Letter I 'had about Two Months ago by Mr. *Johnſon*, to which I immediately in his 'Hand returned my Anſwer. A Rumour has reached me of your having writ-'ten hither ſince; but I can find no body that *owns* he has ſeen your Letters.

I am always,

SIR,

Your truly Obedient, and

Dec. 16.

moſt Humble Servant.

Your Committee obſerve, That *Johnſon* is the Name by which *Kelly* conſtantly went, as appears to them from ſeveral ∴ Affidavits: And that he was at *Paris* the 16th of *December*, 1721. *N. S.* and ſet out in two or three Days after for *England*, as appears from the * Pocket-Book taken upon him: And the Letter to *Dubois* ſeems to intimate ſuch a Correſpondence as made it unſafe to write openly, and without Diſguiſe. ∴ E. 6, 12, 13, 14. * E. 17.

Among the Biſhop's Papers was found another ** Letter, dated, *Rouen, January* 15th, 1722. without any Name; and the Superſcription torn off: Which Letter is mentioned to be ſent by an honeſt Gentleman; and the Writer of it deſires to know how he may direct; and deſires to be directed to by the Name of *Wiſhart*, at Mr. *Arbuthnot*'s at *Rouen*, which is probably a fictitious Direction, no Name being ſubſcribed to the Letter. He likewiſe mentions a former Letter ſent under Cover to their common Friend Sir *Red.* Who Sir *Red.* is does not appear to your Committee; but they find one Sir *Red. Everard* inſerted in *Plunket*'s †† Cypher, and deſigned by the fictitious Name of *Fly*. ** D. 7. †† C. 51.

Among the Biſhop's Papers were likewiſe found two ||| Letters from Captain *Charles Holſtead* of *Greenwich*; the Perſon who, as has been mentioned above, was ſent to *Bilboa* to tranſport the late Duke of *Ormond* to *England*. ||| D. 8, 9.

Some

Some Letters having been intercepted, which there is good Reaſon to be-
∴ D. 10. lieve were from the Biſhop of *Rocheſter*; and ∴ one of theſe Letters being
* D. 11. ſigned *T. Jones*, and another * *T. Illington*, your Committee will now lay before the Houſe the Evidence they have found of the Biſhop's being deſigned by thoſe Two Names, collected from Circumſtances, which being in themſelves ſeemingly minute, and of little Conſequence, were for this Reaſon more frankly confeſſed by thoſe, who were obſtinate in concealing ſtronger Proofs; and yet at the ſame Time lead directly to the Diſcovery of the Perſon meant by thoſe Names.

Mrs. *Barnes* being examined before a Committee of Lords of the Council, obſtinately refuſed to make the leaſt Diſcovery relating to *George Kelly*; but when ſhe came to be aſked what ſhe knew about a Dog, ſent over to *Kelly* from
† E. 4. *France*; not ſuſpecting this could lead to any Diſcovery, ſhe readily † owned, That a ſpotted little Dog, called *Harlequin*, which was brought from *France*, and had a Leg broken, was left with her by Mr. *Kelly*, to be cured: That the ſaid Dog was not for her, but for the Biſhop of *Rocheſter*; and that *Kelly* promiſed to get the Dog of the Biſhop of *Rocheſter* for her, in caſe it did not recover of its Lameneſs. This Declaration ſhe made and ſigned in the Preſence of the Committee of Council: And *Kelly* himſelf made no Difficulty
‖ E. 1. ‖ to own the receiving ſuch a Dog from *France*.

But it appears to your Committee, by Letters intercepted between *Kelly* and his Correſpondents in *France*, (the Proofs of which will be ſet forth in the Sequel of this Report,) That a Dog ſo named and hurt, was ſent over to *Kelly* from *France*, to be delivered as a Preſent to the Perſon denoted by the Names of *Jones* and *Illington*.

For in his ∴ Letter to *Howell* (who is explained in *Plunket*'s Cypher to mean
∴ E. 35. *Glaſgow*, and has been obſerved above to be *Dillon*'s Secretary,) he mentions his having received the Preſent, and the Accident of a Leg being broken in the Voyage; and adds, *I will inform Mr.* Jones *ſoon of it, to whom I know any Thing from that Quarter will be very acceptable.* In the ſame Paragraph he ſays, *Mrs.* Jones *died laſt Week; and when the Days of Mourning are over, ſhe will, I hope, be fit for Buſineſs.* This Letter was writ on *Mon-*
** D. 47, *day* the 30th of *April*; and the Biſhop's Lady ** died the Week before, on
48. *Thurſday* the 26th of *April*.

†† E. 42. *Kelly* in his †† Letter to *Muſgrave*, (which Name will be hereafter ſhewn to ſignify the late Lord *Marr*,) dated the 7th of *May*, ſays, 'Mrs. *Illington* 'is in great Tribulation for poor *Harlequin*, who is in a bad Way, having 'ſlipp'd his Leg again, before it was thoroughly well: However, *his* Ob-'ligations to the Lady are as great as if he had come ſafe, which *he* de-'ſires you to let her know.

The Words *He* and *His* being relative to Mrs. *Illington*, ſhews it is a Man that is ſpoken of: The Biſhop's Lady was dead at the Time this Letter was writ. And this Diſguiſe of putting *Mrs.* for *Mr.* is frequently made uſe of in the intercepted Letters, and is confirmed by a parallel Inſtance immediately following.

|||| E. 43. *May* the 9th, *Dillon*'s Secretary |||| writes to *Kelly*, and ſays, 'Mrs. *Chivers*, '(which will be ſhewn to be General *Dillon*,) prays you will condole in *his* Name 'on the Death of Mrs. *Illington*.

It appears by theſe Paſſages, that the Dog was for Mr. *Jones*, alias *Illington*: And upon *Kelly*'s writing Word that Mrs. *Jones* was dead, the Correſpondents condole on the Death of Mrs. *Illington*; which ſhews *Jones* and *Illington* to be the ſame, and both to be made uſe of to denote the Biſhop.

On

On the 11th of *May*, *Motfield* (who is the ſame with *Muſgrave*, that is, the late Lord *Marr*) ſends a * Letter to Mr. *Illington*, encloſed under Cover to *Kelley*; in which, after acknowledging the Receipt of *Illington*'s Letter of the 20th of *April*, he adds, 'I did not expect ſo ſoon after to have heard of a Loſs 'you have had ſince; for which I condole with you, and nothing which con- 'cerns you ſo near can fail touching me, as in Friendſhip it ought. It is tho, 'becoming us, as it is our Duty, to ſubmit with Reſignation to what the 'Juſt and Great God thinks fit to order for us in this vain and tranſitory 'World; but you know ſuch things ſo much better than I, that will not 'trouble you with ſaying any more upon it.' * D. 24.

This laſt Paragraph ſeems to point out the Character and Function of the Perſon to whom the Letter was writ.

Motfield adds, 'I would fain hope that your own Diſtemper will ſoon give 'you eaſe;' which agrees with the Circumſtance of the Biſhop's being ill of the Gout, at the time of his Wife's Death.

This Particularity, as alſo ſeveral others, which will be taken notice of, as to the Biſhop's being in Town or in the Country, at the reſpective times mentioned in the intercepted Letters, have been carefully enquired into; and it appears by a * Paper annexed to the Report, that theſe ſeveral Circumſtances do exactly agree with what is mentioned in the Letters. * D. 47.

Kelly † writing to *Muſgrave* (the late Lord *Marr*) the 7th of *May*, ſays, Mrs. *Jones* is come to Town: the ſame day writing to *Chivers* (*Dillon*) he ſays Mr. *Illington* is now in Town; which again confirms *Jones* and *Illington* to be the ſame, and agrees with the Inquiry made at that time. † E. 42.

On the 10th of *May*, *Kelley* * writes to *Dillon*'s Secretary, *Illington* is gone into the Country, and ſent me word he would be in Town on *Tueſday* Night, when he has deſired to ſee me at a particular Hour, by which I conclude it may be about Buſineſs. And on *Monday* the 14th of *May*, (the Day before, it is ſaid, *Illington* was come to Town) * writing to the ſame Perſon, he ſays, *Jones* is ſtill in the Country, but has ſent me word he will be in Town to morrow. * E. 44. * E. 45.

Theſe ſeveral Circumſtances, join'd to *Neynoe*'s Declaration, that *Kelley* had told him, the Biſhop went ſometimes by the Name of *Jones*, and that *Carte* had told him, the Biſhop went by the Name of *Illington*, ſhew, that wherever *Jones* and *Illington* are nam'd in *Kelly*'s Correſpondence, the Biſhop of *Rocheſter* is to be underſtood by thoſe Names.

Your Committee therefore will next proceed to lay before you the part which *Jones* or *Illington* appear to have born in the treaſonable Correſpondence.

It appears by *Kelly*'s * Pocket-Book, that *Kelly* ſet out for *Paris* on the 22d of *February* 172$\frac{1}{2}$, and return'd to *London* about the 8th of *April* following. * E. 17.

It appears by † Mrs. *Levett*'s and * *John Malone*'s Depoſition, that he came to Mrs. *Barnes*'s on Wedneſday the 11th of *April*, at eight in the Morning, extremely fatigued, and went immediately to bed. Mrs. *Levett* has depoſed upon Oath, 'That Mrs. *Barnes* told her he was then juſt arriv'd from *France*, and 'brought over Letters with him: That ſeveral of the Diſaffected had been 'at her Houſe to enquire after him before his Arrival, and expreſs'd the ut- 'moſt Concern for fear he ſhould be taken.' And * *Neynoe* declar'd, 'That he 'ſaw a great Bundle of Letters, which *Kelly* brought over from *France*.' 'Mrs. *Barnes* farther told Mrs. *Levett*, 'That the Day after, (*viz. Thurſday* 'the 12th of *April*) the Biſhop of *Rocheſter* ſent his own Coach to fetch him, 'and that *Kelley* was abſent in the Country till *Saturday* the 14th.' Two * Depoſitions, annexed to this Report, ſhew, that the Biſhop of *Rocheſter* came to Town on *Wedneſday* the 11th, and went to *Bromley* on *Thurſday* the 12th of *April*. † E. 6. * E. 15. * E. 9. * D. 47. 48.

It appears by a † Letter writ to *Kelly* from *France* by the late Lord *Marr*, and intercepted, that on *Monday* the 16th of *April* (which was the firſt Poſt-Day to *France*, after the Biſhop had ſent for *Kelly*) *Kelly* had writ to *Marr* an Account of his Negotiations with *Illington*, and of *Illington*'s Willingneſs to be reconciled to one, deſign'd by the Name of *Hacket*. Who *Hacket* is, does not appear to your Committee, but he is deſcribed in ſeveral of the Letters as † D. 13.

a Perſon in ill Health, retired in the Country, and one in whom the Pretender's Agents at *Paris* place their greateſt Hopes and Confidence next to *Illington*. This Reconciliation with *Hacket*, *Illington* was deſirous might be kept ſecret for ſome time, that it might not be known they acted in concert.

* D. 14. It appears by another * Letter to *Kelly* from *Dillon*'s Secretary at *Paris*, that *Illington* had writ a myſterious Letter thither, and that *Kelly* had writ a ſubſequent one in Explanation of it, which had been ſhewn to *Dillon*.

† E. 26. The firſt † Letter that was intercepted from *Kelly* himſelf, was dated the 22d of *April*, ſigned *James Johnſon* (the Name he always went by, and often ſigned by) and directed to *Gordon junior*, Banker at *Boulogne*, at whoſe Houſe it is probable he had been entertained in his laſt Return from *Paris*; which *Gor-*

* A. 9. *don* is mentioned in a * Letter from Mr. *Craufurd*, as being formerly the Pretender's Banker, and as one employ'd in hiring a Veſſel to tranſport ſome of the Chiefs of the Conſpiracy to *England*. In this Letter to *Gordon*, *Kelly* recommends to his Care a Packet encloſed.

This Packet was directed to Mr. *Chivers* (which will be prov'd to be *Dillon*) and conſiſted of three Letters, one to *Chivers* himſelf, ſign'd *T. Jones*, another to *Muſgrave* (which will be prov'd to be *Marr*) ſign'd *T. Illington*, a third to Mr. *Jackſon* (which will be prov'd to be the Pretender) ſign'd 1378, which Number is found by the Decypherers to denote the proper Name of a Perſon beginning with the Letter *R*, in the Cypher made uſe of in theſe three Letters, the Order of which, as your Committee is inform'd, is alphabetical. All the three Letters were dated the 20th of *April*, and appear by the Matter to be from the ſame Perſon, which prove 1378 to be the ſame with *Jones* and *Illington*. The Letters to *Muſgrave* and *Jackſon* were encloſed in that to *Chivers*.

The Perſon who dictated theſe Letters, ſpeaks of himſelf as being in ill Health, in great Pain, under ſome ſad and melancholy Circumſtances, which made him uncapable of doing any thing regularly at that time, but which he

* D. 47. 48. expected would ſoon blow over; which agrees with the Biſhop's * Circumſtances at that time, whoſe Wife was extremely ill, and died ſix Days after, and he himſelf, as has been obſerv'd before, was at that time afflicted with the Gout.

The Letter to *Chivers* is great part of it out of Cypher, and with the Decyphering is in the following Words.

SIR, 20th of *April* 1722.

'I Ought to acknowledge in form the ſeveral Papers I have ſucceſſively receiv'd from you, if I were capable at preſent of doing any thing regularly; but indeed I am not, as *Hatfield* well knows, and why I am not: Some time muſt paſs before I am any way capable of Buſineſs; in the mean time you are in the right to preſs the Gentlemen concerned by all manner of ways you can think of, to furniſh, what by being hitherto not ſupply'd, has render'd the thing impracticable. They were deſirous of having that Matter entirely in their own Management, and I not unwilling that they ſhould have it, being always diffident of Succeſs on my part upon Interpoſitions of that kind; and therefore it gave me no concern to be ſo freely excuſed from any Share (as I was for a great while) in that trouble. At laſt indeed, when the point was found upon tryal to be more difficult than they expected, I was preſs'd to undertake the Matter; but ſo late, that I did not think it reaſonable for me then to interpoſe, nor can I yet undertake any thing of that kind, it being what (ſince ſome former Miſmanagement wherein I was deeply concerned) I have conſtantly declined, hoping that I might not be altogether unuſeful to the Service, if I went on to promote it in my own, that is, in another way. I ſtill hope ſo, and that a little time (which muſt be employed in doing nothing but ſolliciting Supplies) will give me room for entring into Meaſures that may be ſomewhat more ſignificant than thoſe formerly taken; this I ſhall endeavour, being at preſent perfectly tired

'by

'by the diſtracting Meaſures which have been taken from ſeveral Quarters, 'by Perſons no ways equal to the Work, and at the ſame time not agreeing 'among themſelves. This is all I can ſay at preſent, but that I am, with the 'ſame entire Reſpect and Fidelity I ever was,

SIR, *Your moſt*, &c.

T. Jones.

'I have communicated the Copies of Mr. *Manfield*'s and *Jacob*'s Letters, 'which beſides the * G . . . . . : . . . . . , (whereof they had a Copy) 'were the only ones of thoſe tranſmitted, that I was directed, or indeed thought 'proper ſo to do. Tho I have for ſome time thought, that nothing of Impor- 'tance ſhould be truſted to the Poſt, and am reſolved my ſelf not to ſend 'that way; yet the Death of Lord *Sunderland* makes ſuch a Caution more 'indiſpenſibly neceſſary; for you may depend upon't, that thoſe in Power here 'will now enter into Meaſures of more Severity and Strictneſs, and employ 'all their Diligence, as well as Power, on ſuch Occaſions.'

* Not decyphered.

That *Chivers*, to whom this Letter was directed, means General *Dillon*, is evident from the following Circumſtances.

On the 13th of *May*, *Cane* * writing to *Kelly*, owns the Receipt of theſe Letters from the Biſhop, but over-againſt the Name of *Cane* in *Plunket*'s * Cypher, is writ *Dillon*, and *Kelly* † anſwering this very Letter of *Cane*'s, directs to *Chivers*. Beſides which, it appears from innumerable Paſſages, that *Cane* and *Chivers* mean the ſame with *Digby* and *Dixwell*, which have been ſhewn at large to denote General *Dillon*.

* E. 38. * C. 51. † E. 41. a.

The Biſhop's Letter to *Muſgrave* (who will be prov'd to be the late Lord *Marr*) is as follows:

To Mr. Muſgrave.

SIR, *April* the 20th 1722.

'I Received from Mr. *Hatfield* (after a long Intermiſſion of ſuch Favours) a 'Letter which was very welcome to me: I have alſo conſider'd carefully 'what he had to offer to me in particular, and entirely agree with what is 'propoſed; but my preſent ſad Circumſtances (of which he has already in- 'form'd you) will not ſuffer me to be active ſoon, or even ſet forward the 'Affairs entruſted with me in ſo ſpeedy a manner as I could wiſh; the beſt 'is, that as I cannot act openly, ſo neither is there, I think, any immediate 'Need of it, ſome time being requiſite towards ripening Matters, in order 'to fix the * C . . . . . : . . . . . 'd, which, if haſtily begun, may be 'attended with Suſpicions and other Inconveniencys; but you may depend 'upon it that the * : . . . . . : . . . . . s committed to my care, ſhall be 'forwarded in due time to the Perſons concerned, as alſo all ſuch other '* : . . . . . s as I judge, and at the time I judge, they will beſt promote 'the Service. What is to be wiſh'd for, is, that the Perſon whom I am to 'act with, would come to Town, and his doing ſo may be facilitated better 'from your ſide, than by any thing that can be done here; by that time he 'comes, I hope I ſhall be able to take my part with him. I add no more 'now, being very unfit to ſay even thus much, but that I am with entire Re- 'ſpect and Confidence,

* Not decypher-ed.

SIR,

&c.

T. Illington.

That

That *Muſgrave* (to whom this Letter was directed) means *Marr*, is thus proved.

* E. 50. ¶ C. 51. *Dillon's* Secretary * writes to *Kelly* that Mr. *Lane* (over-againſt which Name in † *Plunket's* Cypher is writ Lord *Marr*) was much pleaſed with his firſt Letter, which, as has been obſerved before, was writ on the 16th of *April*.

* E. 32. Soon after a Perſon * writes to *Kelly*, acknowledging the Receit of this Letter of the 16th of *April*, and expreſſing his Satisfaction at *Illington's* Willingneſs to be reconciled with *Hacket*; his Letter is ſign'd 918, which Number is found by the Decypherers to denote the proper Name of a Perſon beginning with the Letter *M*, and *Kelly* † anſwering this Letter directs to *Muſgrave*.

† E. 42.

Beſides which, *Muſgrave* is found to be a Perſon, whoſe Penſion is ſaid to be ſtop'd in *England*, at the very time that a * Penſion granted to the late Lord *Marr* was ſtop'd, and is ſpoken of in other † Letters as one ſuſpected of betraying them, with ſuch Circumſtances as fix the Perſons meant to be the late Lord *Marr*.

* E. 71. † E. 37. 41.

The Biſhop's Letter to *Jackſon* (who will be proved to mean the Pretender) is as follows:

To Mr. Jackſon, *under the Cover of*
Mr. Gordon le fils Banquier à
Boulogne ſur Mer.

SIR, *April* the 20th, 1722.

'I AM ſorry to find by yours, which *Hatfield* brought, that you know our 'Circumſtances on this ſide ſo well, becauſe that Knowledge does not, I 'apprehend, give you any advantageous Opinion of us; however let that be 'as it will, 'tis not fit you ſhould be deceiv'd, and rely on more than will be 'made good to you: if you gueſs'd at my right Mind, I dare ſay, it was a-'greeable to your own, and that you could not but ſee thro the forwardneſs 'of all thoſe unſupported pretending People. Notwithſtanding this Oppor-'tunity is elapſed, I agree with you, another may offer before the end of the 'Year, tho not perhaps every way ſo favourable: however it became me to ſpeak 'ſtrongly on that Head, eſpecially at the time when the *: . . . . . was 'drawn, which was long before it was tranſmitted, for it was kept back a great 'while, in hopes that Deeds might have accompany'd Words, and ſent at laſt 'rather to juſtify the Writer in reſpect to that part he had undertaken, than to 'puſh on any Deſign in ſo unprovided a Condition. I find I was not miſtaken, 'and am glad I was not ſo, tho every Word of that *: . . . . . paſſed the 'View and Approbation of the Perſons concern'd, but they were to be and 'ſhall always be by me treated tenderly, tho nothing ſhall engage me to enter 'deep with them for the future. I had taken this Reſolution before *Hatfield's* 'Return, and am pleas'd to find that you concur with me in Opinion. As 'ſoon as God reſtores me to my Health, and ſome other melancholy Circum-'ſtances are blown over, which will be as ſoon as there is any occaſion for me, 'I will not be idle: in the mean time give me leave to withdraw my ſelf *ſee-'mingly* from any Engagement of this kind; I ſhall return to it, I doubt not, 'with more Ability to promote the Work: not that I will decline any proper 'Occaſions that may offer themſelves to converſe freely with the Men and in 'the manner I have been uſed to do, for it is fit upon all accounts I ſhould do 'ſo; but by little and little that Confidence will cool, and make room I hope 'for ſomewhat of a more ſolid and important Nature. I dictate this in great 'Pain, and for that Reaſon, and becauſe I am not at preſent in any readineſs

* Not decyphered.

'to

' to go further, ſhall add only my faithful Aſſurances of an entire and unalterable Reſpect for you.

R.

That *Jackſon* (to whom this Letter is directed) means the Pretender, appears from * *Plunket's* Cypher, in which, over-againſt the Name of *Jackſon*, is writ, *The King*; tho two Names had gone before in that Cypher, over-againſt which is writ, King *George*. * C. 51.

Beſides which, † *Plunket's* Letter mentioning his and *Layer's* Journey to *Rome*, is directed to Mr. *Jackſon*; and *Jackſon* appears from other Letters to be the ſame with *Malcom*, to whom Application is made in a * Letter from *Edinburgh*, for a Patent for Knight Baronet, and for Orders to raiſe one or two Battalions. † C. 41. * I. 9.

The Cypher made uſe of in theſe three Letters, is the very ſame that is made uſe of in two Letters intercepted from the late Duke of *Ormond's* Agents in *Spain*, of which Notice has been already taken. And the ſame Cypher is alſo uſed in Letters from *George Kelly*, and to *Dennis Kelly*. And among the Papers of the latter was found a † Piece of a Cypher in *George Kelly's* Hand-writing, which your Committee are inform'd is a Supplement to the Cypher made uſe of in *Jones* and *Illington's* Letters. † F. 11. a.

The Clerks of the Poſt-Office, who opened and copied theſe three Letters, having been ſhewn ſeveral Papers ſworn to be *George Kelly's* Hand-writing, have * depoſed upon Oath, that the Letter to *Gordon* junior, ſign'd *James Johnſon*, as well as the three Letters enclos'd in it, directed to *Chivers*, *Muſgrave* and *Jackſon*, were all, to the beſt of their Knowledge and Belief, writ in the ſame Hand with thoſe Papers; which join'd to † *Neynoe's* Information, that *Kelly* had told him, he was employ'd in writing Letters for the Biſhop to the Pretender's Agents abroad; that the Biſhop never let him carry a Bit of his Hand-writing out of the Room; and that *Kelly* made uſe both of a numerical Cypher, and a Cypher of fictitious Names, for managing this treaſonable Correſpondence; appears to be a ſtrong Confirmation that theſe three Letters were dictated to *Kelly* by the Biſhop, and that the Biſhop is the Perſon denoted by the Names of *Jones* and *Illington*, and by the Cypher 1378. * E. 19. † E. 10.

In what manner theſe Letters were convey'd to *Paris*, will be obſerv'd in that part of the Report which relates to *Kelly*. The Correſpondents at *Paris* own the Receipt of the Pacquet from their Couſin *Jones*; and on the 7th of *May*, *Kelly* † writes *Dillon* Word, that *Illington* is glad to hear his Letters came ſafe, and wiſhes his next be more to *Dillon's* Satisfaction. * * E. 37, 38. † E. 41. a.

Your Committee having thus laid before you the Grounds they have to be convinced, that theſe three Letters were ſent from the Biſhop of *Rocheſter* to General *Dillon*, the late Lord *Marr*, and the Pretender; they think it their Duty to make ſome Obſervations on the Contents of them.

They obſerve from his Letter to *Dillon*, that he has contracted a great Intimacy and Familiarity with a profeſs'd *Roman* Catholick, who appear'd openly in Arms againſt the late King *William* in *Ireland*, and being obliged to leave that Country ſo long ago as the Capitulation of *Limerick*, has ever ſince adher'd to the ſame Cauſe in foreign Parts, and is at preſent more active and induſtrious than any other of the Pretender's Agents in exciting a Rebellion in theſe Kingdoms. He is at this time a Lieutenant-General, and has the Command of one of the *Iriſh* Regiments in the *French* Service.

Your Committee obſerve, That as the different Profeſſions of theſe two Perſons could lay no ſort of Foundation for any Intimacy or Intercourſe between them, ſo the long Abſence of General *Dillon* makes it highly

probable, that their Acquaintance could not be commenced before his leaving theſe Kingdoms; and that it can only have proceeded from their being long united and confederated in the common Support of the ſame wicked Cauſe.

Yet their Intimacy is ſuch, that the Biſhop acknowledges the Receipt of ſeveral Papers from *Dillon*, together with Directions for communicating them, which the Biſhop owns he obey'd as far as he judg'd it proper for the Service. Some of theſe Papers appear to have been from the late Duke of *Ormonde*, who is attainted; and others probably from the Pretender, whom he has ſo often abjured.

He adviſes *Dillon* to preſs the ſolliciting Supplies; and owns he has been deſired to undertake that Province himſelf, but that he had hitherto declin'd it; not from ſuch Reſtraints as ſhould naturally have ariſen in the Mind of one of his Character and Function, but merely on account of ſome former ill Succeſs and Miſmanagement, in which he owns he had been deeply concern'd.

He afterwards adviſes *Dillon* to uſe the ſame Caution which he himſelf intended, of not truſting any thing of Importance to the Poſt, endeavouring to act within the Shelter and Safeguard of the Laws for ſubverting our happy Conſtitution.

This great Caution, which (as *Neynoe* ſaid *Kelly* told him) the Biſhop uſed, made him ſo extremely careful, as not to let even the Man he truſted moſt, have one Line of his own Hand-writing; and ſhews that he was wonderfully ſollicitous, not to avoid the Guilt of Treaſon, but only to eſcape the Puniſhment due to it, by ſaving himſelf from the danger of legal Conviction.

Another of his Letters is to the late Lord *Marr*, who ſo lately appear'd in Arms againſt his Majeſty, and has ſince had a Poſt of the greateſt Confidence and Truſt near the Pretender.

In this Letter he owns the Receipt of one from *Marr* by *Kelly*, together with verbal Inſtructions; which, to cut off all Excuſe of Surprize or Inadvertency, he ſays he carefully conſider'd, and yet entirely agreed to.

He then mentions his preſent ſad Circumſtances, but comforts *himſelf*, that as they will not permit him ſoon to act openly; ſo neither is there, he thinks, any immediate occaſion for it, ſome time being neceſſary towards ripening Matters; ſo that when a proper Opportunity ſhould have offer'd, the Maſk was to have been thrown off, and he was then openly to have avowed the Cauſe, which he has hitherto ſupported only in Diſguiſe.

The other Letter of the Biſhop's is to the Pretender *himſelf*, in defiance of that Law which makes the holding any Correſpondence with him, or his Agents, High-Treaſon. In this Letter he owns the Receipt of one from the Pretender; and to ſhew how well he deſerv'd that Confidence, he himſelf, who beſt knows the Thoughts of his own Heart, declares, that if the Pretender gueſs'd at his right Mind, he dares ſay it is agreeable to the Pretender's own.

He then encourages the Pretender to hope for a ſecond Opportunity, tho not every way ſo favourable as the firſt, which was elapſed.

This favourable Opportunity appears to have been that of the Elections; and your Committee cannot but obſerve, that the two moſt riotous Elections of any throughout the Kingdom, were that of *Weſtminſter*, a Place under the immediate Influence of the Biſhop of *Rocheſter*; and that of *Coventry*, which appears by this Report to have been animated by *Carte*, an Agent of the Biſhop's, and one employ'd by him in managing his treaſonable Correſpondence.

He afterwards takes to himſelf the Merit of ſome Writing, which he had drawn up and tranſmitted to the Pretender, after it had firſt paſſed the View and Approbation of the Perſons concern'd: tho he ſays it had been kept back.

back a great while, in hopes that *Deeds* might have accompanied *Words*: Which again ſhews his treaſonable Intentions to have been the Reſult of mature Deliberation; and that tho he had hitherto dealt in Words, yet other Acts of Treaſon were what he hoped for, and was aiming at.

As ſoon as God ſhould reſtore him to his Health, he promiſes to abuſe it towards the Proſecution of his Treaſons, and in the mean time deſires leave to withdraw himſelf ſeemingly from any Engagements of that kind, that he might return with greater Zeal and Activity to deſtroy this Church and State, by placing a Popiſh Pretender on the Throne, in violation of the moſt ſacred Oaths ſo frequently taken by him.

Your Committee will now proceed to ſhew what farther Part the Biſhop appears to have had in the treaſonable Correſpondence and Negotiations carried on with the Pretender's Agents in *France*.

On the 11th of *May*, *Motfield* anſwers *Illington*'s Letter ſent to *Muſgrave* (*Marr*) the 20 of *April*. This Anſwer was inclos'd in a Letter to *Kelly*. The Subſtance of the Anſwer is to condole with *Illington* on his Loſs, and to expreſs great Satisfaction on finding him in the ſame Sentiments with *Marr* in relation to their old Friend and Acquaintance (*Hacket*) and in another † Letter, to *Kelly*, he lets *Illington* know how agreeable this Reconciliation would be to *Farmer*, and how much to *Farmer*'s Intereſt. * D. 24. † D. 13.

Your Committee ſee Reaſon to believe from Paſſages in ſeveral of the Letters, that *Farmer* means the *Pretender*.

It has been obſerved above, one of the Periods of Time, fixed by the Conſpirators for putting their Deſign in execution, was the beginning of *May* 1722.

On the 1ſt of *May*, *Dillon*'s Secretary * writes to *Kelly*, 'that Mr. *Jones* 'cannot take a better time to have himſelf fitted with an eaſy *Saddle*, there 'being a number of Sadlers idle in *France* at preſent, who in caſe of Wars 'would be ſo very buſy there would be no coming at them.' This is explain'd by what † *Neyroe* ſaid, that in *Kelly*'s Cypher *Sadlers* ſtood for *Iriſh Soldiers*, tho he did not know any Letters had been intercepted where that Term was made uſe of, and in * *Plunket*'s Cypher *Saddles* ſtand for Regiments, and Girt for one hundred Men. * D. 17. † E. 10. * C. 51.

On the 2d of *May*, *Dillon* himſelf † acknowledges the Receit of his Couſin *Jones*'s Letters of the 20th of *April*, and 'expreſſes much Concern for that 'Lady's ill State of Health, being much afraid his own ſmall Concerns can 'hardly be ſettled to Satisfaction, till ſhe is able to ſollicit in his Favour.' † E. 38.

On the 7th of *May*, *Kelly* * writes to *Muſgrave* (*Marr*) 'that he had com- 'municated his Letter to Mr. *Jones*; and that Mr. *Jones* deſir'd a Letter 'from *Muſgrave* or *Farmer* (the Pretender) to *Hacket*, to bring him to Town, 'without which it would be impracticable for them to do Buſineſs together; 'that *Jones* finds *Armſtrong and Company* very loth to be any way concern'd, 'having no Opinion of the preſent Hands, however that it is ſtill neceſſary 'to make the moſt of them.' * E. 42.

Who is meant by *Armſtrong and Company* does not appear to the Committee.

On the 9th of *May*, *Dillon*'s Secretary † writes to *Kelly*, 'that if 'this Poſt had not brought an Addition of three to the ſix formerly 'come from *Repney*, it is eaſy for Mrs. *Jones* to ſee what is ſtill want- 'ing for the Purchaſe ſhe intends to make.' Who is meant by *Repney* is not certain, but in the following Part of this Report there will appear Grounds of a probable Conjecture. † E. 48.

This Paſſage relates to a Bill of Exchange (of ſix thouſand Pounds probably) ſent over to *Calais*, and thence to *Waters* the Pretender's Banker at *Paris*, on the 16th of *April*; the Receit of which is acknowledged in ſeveral Letters both to * *George Kelly* and † *Dennis Kelly*. This Paragraph, which ſays, * E. 31. † F. 19. 21.

ſays, ‘ That if three more are not come, beſides the ſix from *Repney*, it is eaſy ‘ for Mrs. *Jones* to ſee what is ſtill wanting for the *Purchaſe ſhe intends to make*;’ ſhews plainly, that *Jones* was at leaſt privy to that Remittance, which agrees
* D. 1. with what *Pancier* * has depoſed upon Oath, that he was told by *Skeene*, among other Particulars relating to the Conſpiracy, that a large Contribution had been raiſed and put under the Management of the Biſhop of *Rocheſter*, which was called their military Cheſt.

† E. 44. On the 10th of *May* (three Days after the Encampment) † *Kelly* writes to *Dillon*'s Secretary, ‘ That it was reported the King had abſolutely refus'd to ‘ put off his Journey, and intended to ſet out early next Month; and that if ‘ they could then compaſs *Barrels* enough, the ſooner the Wine comes, he be- ‘ lieves, the better. He adds, that *Jones* promiſes to be a good Cuſtomer, ‘ and that he hopes *Hacket* and *Jones* will give them the finiſhing Stroke.’ The time of Year in which this Letter was writ, and the abſurd Suppoſition of its being more difficult to find *Barrels* than *Wine*, ſhew ſufficiently that theſe Words are not to be taken in their literal Senſe.

Your Committee are inform'd, that Wine was explain'd by *Neynoe* to mean *Invaſion*, tho he had never been told that any ſuch Word had been made uſe of
* C. 51. in theſe Letters, nor had been ask'd any Queſtion about it; and in * *Plunkett*'s Cypher, *Barrels* is explain'd *Army*, and *Vines*, *one thouſand Men*.

† E. 46. On the 19th of *May*, *Dillon*'s Secretary † writes to *Kelly*, ‘ That he is aſſured ‘ by good Hands, *Hacket* and *Jones* are the beſt able to adjuſt his particular ‘ Concerns; that he does not queſtion their good Diſpoſitions, and that doing ‘ it timely will be a double Merit.’

On the 19th of *May Kelly* was taken into Cuſtody, about the 7th of *June*
* E. 47. he was admitted to Bail, and on the 11th he * writes an Account of his Examination to one *Gerard*, whom your Committee believe to be Sir *John*
† E. 81. *D'Obryan*, whom *Kelly* † owned to be employ'd by *Dillon* in writing for him. In this Letter *Kelly* ſays, ‘ He was chiefly queſtioned about a little ‘ Dog he got from *France*, and about five or ſix cant Names, which were ‘ *Illington*, *Jones*, *Cane*, *Howell*, *Quitwell* and *Hacket*; and that whoever *Illington* ‘ is, he was the Perſon chiefly ſtruck at.’

* E. 49. On the 18th of *June* * he writes to *Dillon*, ‘ That it is abſolutely neceſ- ‘ ſary to make no more uſe of their preſent *Account-Book*, ſince thoſe that ‘ have got part, may by the ſame Method have got the whole; and that it will ‘ be highly improper for him to meddle with Buſineſs, at leaſt for ſome ‘ time.’

From this time forward your Committee obſerve, that the Names of *Jones* and *Illington* are no more heard of in the intercepted Correſpondence; neither does *Kelly* ſo frequently write Letters of great Buſineſs, but in his ſtead *Thomas Carte*, Clerk, takes up the Management of the Biſhop's Correſpondence.

The Letters from *Carte* are ſigned, and thoſe to him directed by the Name of *George Williams*; and Mrs. *Harbin*, to whoſe Houſe they were directed,
† D. 4. ving been examined before ſome Lords of the Council, † has depoſed on Oath, that *Carte* deſired her to take in Letters ſo directed, and that ſhe delivered one ſo directed into his own Hands.

*F. 11. a. And in the * Cypher taken among *Dennis Kelly*'s Papers in *George Kelly*'s Hand-writing, Mr. *Carte* is deſigned by the fictitious Names of *Thomas* and *Trotter*, who appear, by comparing ſeveral Paſſages in the Letters, to mean the ſame Perſon with *George Williams*.

From the time of *George Kelly*'s being firſt taken up, the Biſhop of *Rocheſter* is denoted by the Names of *Rig* and *Weſton*, as will appear from the following Circumſtances.

On

On the 30th of *Auguſt*, *Kelly* * writes to *Dillon* a long Letter, which contains the Particulars of the Biſhop's being taken into Cuſtody, examined and committed. On the 14th of *September Dillon*'s Secretary † writes to *Kelly*, 'That 'his Letter on the 30th of *Auguſt* came ſafe, and that the Particulars he gave 'of Mr. *Rig*'s Caſe were very acceptable to *Dillon*, whoſe Concern for a true 'and worthy Friend and Relation cannot be doubted, and a longing deſire to 'know *her* entirely clear of *her* Diſtemper.' In the ſame Letter he deſires to know what is become of *Carte*.

* D. 45.

† D. 46.

That *Rig* denotes the Biſhop is farther confirmed by theſe Particulars: *Kelly* in his firſt * Letter after his Enlargement, writes word to *Gerrard*; 'All I can do now, will be only to deliver to your Couſin *Rig* any *Goods* that 'you can ſend by private Hands: he is determined not to receive them any 'other way, and indeed I cannot ſay he is in the wrong. How far this late 'Affair may affect him, I cannot tell.'

* E. 47.

Now ſince it appears that *Kelly* was formerly employed in conveying Letters to and from the Biſhop (which are often called *Goods* in the intercepted Correſpondence) ſince the Biſhop himſelf had deſired in his Letter to *Dillon*, that no more Letters of Conſequence might be truſted to the Poſt, and ſince *Kelly*'s Examination about the Dog could affect no one but the Biſhop, it may juſtly be concluded, that *Rig* and the Biſhop are the ſame.

That *Weſton* is the Biſhop, will appear from the following Circumſtances.

On the 7th of *June*, *Dillon*'s Secretary † writes to *Carte*, and acknowledges the Receipt of a Letter from him of the 28th of *May* (which was ſoon after *Kelly*'s being taken up) and after expreſſing great Satisfaction, 'That 'the late Rumours of a Plot had not occaſioned a total Interruption of 'Commerce, nor obliged any of their Correſpondents to go aſide; he adds, 'that *Dillon* deſires to be moſt kindly remembered to his good Friend Mr. 'Weſton, for whom he was in the greateſt concern, on account of a Story 'that his *Clerk* had been laid up for *Debt*, but that he hopes *Carte*'s next 'Letter will put him at full Eaſe in this matter.'

† D. 27.

This plainly has reference to *Kelly*'s being taken up, and his relation of *Clerkſhip* to the Biſhop has been fully explain'd by what goes before.

On the 14th of *June*, *Carte* * writes to *Dillon*'s Secretary, and endeavours to put him at full Eaſe in relation to Mr. *Weſton*, by telling him, 'That 'Mr. *Weſton* is in the Country, that he ſaw him two days ago, that he is perfectly well, and as eaſy in all his Affairs as any Man alive, and very much '*Dillon*'s humble Servant.' It appears by † Depoſitions annexed to this Report, that the Biſhop was in the Country at that time.

* D. 29.

† D. 47, 48.

On the 14th of *July*, *Dillon* * writes to *Weſton*, under Cover to *Carte*; and deſires he will admit one *Skinner* (ſent over from *France* expreſs) to receive his Commands.

* D. 35.

On the 26th of *July*, *Kelly* † writes word that *Rig* and *Skin* had been lately together, and that before they met, *Rig* ſent to him to know how *Skin* ſtood with *Dillon* and his Partners.

† D. 41.

On the ſame Day *Stanley* (who appears by the matter of his Letter to be the ſame with *Skinner*) writes to *Dillon*, 'That he had been with the Cor-'reſpondent, to whom the Letter of Credit was ſent, and had partly engaged 'him in his Arrack Affair.' On the 30th of *July*, *Carte* † writes word, he had the Honour of introducing *Stanley* to Mr. *Weſton*, and mentions the Arrack Affair, of which notice will be taken in its Place.

* D. 40.

† D. 42.

From theſe Paſſages it appears, that *Weſton* (the Name made uſe of by *Carte*) means the ſame with *Rig* (made uſe of by *Kelly*) which laſt was ſhewn before to mean the Biſhop of *Rocheſter*.

Rig therefore, and *Weſton* being made uſe of to denote the Biſhop, it remains to be conſidered what part *Rig* or *Weſton* appear to bear in the Sequel of the intercepted Correſpondence.

It appears by the * Letter from *Dillon*'s Secretary of the 7th of *June*, that they apprehended in general on *Kelly*'s being taken up, that ſome of their Correſpondents would be obliged to go aſide, but that their greateſt Pain was

* D. 27.

for Mr. *Weſton*, whoſe Intimacy with *Kelly* was ſuch, that *Kelly* is ſtiled his *Clerk*, which is no improper Name for one that kept the Cyphers, which are ſtiled throughout the intercepted Letters, *Books of Accompts*, and in *Layer*'s Cypher are call'd *Rentals*. If *Kelly* had had no Secrets to reveal, the Pain for Mr. *Weſton*, and the Fear of other Correſpondents going aſide, would not have been ſo conſiderable.

* D. 29. On the 14th of *June* * *Carte* ſets them at eaſe in relation to *Weſton*, who was, he ſays, as eaſy in his Affairs as any Man alive: which might be the Caſe, *Kelly* having burnt his Papers, being bailed out, and at Liberty to aſſure his Friends, that the Lords could get nothing out of him at his Examination, where he ſtrenuouſly denied his having ever heard of the Names of *Jones* or *Illington*.

† E. 47. On the 11th of *June*, *Kelly* † ſends his Friends at *Paris* an account of his late Misfortune: and after complaining of their Neglect, in not bailing him out ſooner, and intimating that ſuch Uſage might have provoked a paſſionate Man to betray their Secrets; he ſays, your old Friend *Rig* indeed offered all that could be expected from the poor Man. This Paſſage proves pretty plainly that *Rig* was one of thoſe whoſe Secrets it was in *Kelly*'s power to have betrayed, and who therefore thought himſelf principally concerned to keep *Kelly* in good Temper, by all poſſible offers of Aſſiſtance.

* E. 49. *Kelly* in his next * Letter of the 18th of *June*, ſays, 'The occaſion of 'my Misfortune I will lay at no body's Door in particular, tho *your old* '*Friend* Rig ſeems to believe, it has rather proceeded from ſome pretended 'Friend than any real Enemy; and as his Conjecture lies on this ſide, you 'may eaſily gueſs the Point it tends to.' This Paſſage ſhews, that the Diſcoveries made were known by *Rig* to be well founded, ſince no one could be led to ſuſpect, that an Information entirely falſe ſhould proceed from ſome Friend entirely in the Secret; beſides, it ſhews *Rig* had Friends, in whoſe power it was to betray him, and that thoſe Friends were known to the Correſpondents in *France*, ſince *Kelly* ſays, they are able to gueſs who it is that *Rig* ſuſpects *on this ſide*. This is a farther Intimation, that *Rig* had Friends on the other ſide of the Water, in whoſe power it was equally to have betrayed the Secret.

Kelly then tells *Dillon*, 'That it is abſolutely neceſſary to make no more 'uſe of their preſent Accompt-Book, ſince they that *have got part*, may by the 'ſame Method have got the whole.' This is a direct Confeſſion, that the Names of *Jones* and *Illington*, and others on which *Kelly* was queſtioned, were really *a Part* of the Cypher in uſe between him and his Correſpondents in *France*: and as *Kelly* writ word that *Illington* was the Perſon principally ſtruck at, and knew very well by Mrs. *Barnes*'s Confeſſion about the Dog, who *Illington* was underſtood to be, it amounts to a Confeſſion, that that Expoſition of the Name of *Illington* was true.

He then adds, 'All that lies in my power now, will be to deliver to 'your Couſin *Rig* any Goods you can ſend by private hands, he being deter-'mined not to receive them any other way.' So that by private hands *Rig* was ſtill willing to receive them.

However *Kelly* ſays, 'If your Buſineſs can be conveyed any other way to 'him, you cannot do me a greater favour; for to tell you the Truth, it is 'againſt my Opinion and Inclination to have *any farther* dealing that way.' This ſhews what dealing *Kelly* had hitherto had, and at the ſame time explains how *Carte* comes to be employed in managing the Biſhop's Correſpondence for the future.

Kelly adds, 'That he does not know how far this late Affair may affect '*Rig*.' This ſhews that he knew *Rig* was engaged in ſome criminal Correſpondence, ſince the receiving a Dog from *France*, or being called by a fictitious Name, could not otherwiſe have affected him.

† D. 36. On the 16th of *July*, *Carte* writes a long † Letter about ſome MSS. and *Weſton*'s Opinion of them, as alſo that of *Finch*. What is meant by *Manu-*
* D. 40. *ſcripts*, does not appear; neither is it certain who *Finch* is, but he is * ſpoke of as being in high Repute with *Weſton*.

On

On the 1ſt of *Auguſt*, *Dillon* * writes to *Carte*, ‘ That he cannot apply * D. 43.
‘ to a more ſufficient Judge than *Weſton* about his Concern with Mr. *Finch*;
‘ and he often repeats, that he makes a moſt particular Caſe of Mr. *Weſton*'s
‘ Judgment, that he relies entirely on *Weſton*'s Friendſhip and Advice, and
‘ other Expreſſions of the like nature.’

On the 14th of *July*, *Dillon* writes a † Letter to *Weſton* (the Biſhop) en- † D. 35.
cloſed to *Carte*, in the following words:

To Mrs. Weſton, *incloſed to Mr.* George Williams *at Mrs.* Harbin's *over-againſt* Somerſet-Houſe.

Dear Madam, *Saturday 25 July 1722.*

‘ I Cannot on any reaſonable grounds complain of your Silence, tho long it
‘ appears, becauſe I am informed of the Situation your Health and the Con-
‘ cerns of your Family are in by Bankrupts and Law-Suits. Permit me however to
‘ fulfil a part of my Duty in preſenting you my beſt reſpects, and unalterable At-
‘ tachment to you and yours. I wiſh this may find you ſo far recovered from paſt
‘ miſchances, as that you may be once more in a humour of affording me a
‘ comfortable Line. I have all the Stock I bought lying by, and I intend
‘ it ſhall remain ſo, until you adviſe me of the proper time to diſpoſe
‘ of it, being fully convinced that in the ſlippery Age we live in, I can-
‘ not confide to any better than you. I hear many ſay that our Stocks
‘ will infallibly riſe again to a good height, by Mr. *Walpole*'s wiſe and able
‘ management; from whence I ſhould hope not to be ſo much a Loſer in
‘ reſerving mine. Still my Lights at this diſtance can be but very imper-
‘ fect: therefore, Dear Madam, I will earneſtly pray your Direction, when
‘ you find leiſure to grant me this favour, as alſo of forgiving this Trou-
‘ ble, for which I offer amends in any manner I can be of Service to you.
‘ The few Acquaintances of yours I converſe with in theſe Parts, are well,
‘ and rely as I do on your friendly Advice in a moſt particular manner
‘ about their Concerns in the Funds. They deſire you will be pleaſed to
‘ admit Mr. *Skinner* to receive your Commands, who is directed to call upon
‘ you, and explain ſome Particulars too tedious for a Letter. He ſeems to be
‘ very ready at Buſineſs, and will obey your Orders punctually. I am with
‘ the greateſt Eſteem and Sincerity,

Dear Madam,

Your moſt humble and moſt

obedient Servant,

Digby.

On the 16th of *July*, *Dennis Kelly* † writes word to *France*, that *Skinner* † D. [redacted]
arrived in Town the Night before, that he had been to wait on him, longing much to know how the Fall of Stocks affected his Friends.

On the 26th of *July*, *Kelly* * writes to *Dillon*'s Secretary, ‘ That *Rig* and * D. 41.
‘ *Skin* had been lately together, and that before they met, *Rig* had ſent to
‘ him to know if *Skin* ſtood well with *Dillon* and Partners.’ He adds,
‘ That *Rig* ſtill ſeems to promiſe his Aſſiſtance, if he can get the better of
‘ his Suſpicions; and that *Rig* went into the Country the Day after *Skin*

‘ and

† D. 48. 'and he had been together.' It appears by † a Depoſition annexed to this Report, that the Biſhop came to Town on the 19th, and return'd to *Bromley* on the 21ſt of *July*.

On the ſame Day that *Kelly* writ, *Stanley* (who is the ſame with *Skinner*)
* D. 40. writes * to *Dillon*, 'I have been with *your Correſpondent* to whom the Letter 'of Credit was ſent, who has partly anſwered my Demands, and *promiſes* '*to comply in all Points with your Directions.*'

He then adds, 'I muſt now give you an Account of what Product may 'be hoped for from the Publick Funds.'

Then follows a Paragraph, ſome few Letters of which are in Cypher, but as your Committee is informed, in ſuch an eaſy and obvious one, that any one that reads it, may with the leaſt Attention decypher it. In this Paragraph, inſtead of ſaying a word about the Funds, he acquaints *Dillon*, 'That they are certainly betrayed by ſome one entirely in the 'Secret, who has given ſuch Light into all their Affairs, that the moſt 'minute Circumſtances are perfectly found out; that therefore he muſt 'caution him, as he is requeſted, to be very careful who he converſes with 'even at *Paris*, without excepting any one.'

This Paragraph explains ſufficiently what is meant by *Stocks* and *Funds*; and it is remarkable, that in *Plunket*'s Cypher, *Brokers* is explained *Agents*. The owning themſelves diſcovered by ſome one *entirely in the Secret*, proves there was a *Secret*, and that the Diſcoveries of the Government were well founded.

He then adds, 'I have partly prevailed with the Correſpondent *(Weſton)* 'to undertake what he had firmly reſolved againſt, which is the pro-'curing *Arrack*, which *cannot fail ſucceeding by that Channel.*' And on the 30th of *July*, *Carte* writes to *Dillon* in the following words:

'I had the Honour of introducing Mr. *Stanley* to Mr. *Weſt*. who re-'ceived him in the beſt manner, and aſſured him of his readineſs to ſerve 'him in what he could. Mr. *St*. was much pleaſed with him, but did 'not engage him to ſollicit in his *Arrack* Affair, which yet is of the 'greateſt Conſequence to him, and Mr. *W*. is moſt capable of ſerving him 'in, becauſe in the Eſteem of all the Commiſſioners in whoſe Power it 'is to relieve him in the Caſe. And as Mr. *W*. would do it effectually if 'engaged in it, ſo Mr. *Stanley* deſires me to beg the Favour of you, to 'requeſt the Favour of Mr. *W*. in a Letter from you to Mr. *Stanley*, 'which he is ſure would fortify the good Inclinations Mr. *W*. has al-'ready to ſerve him, and effectually engage him in the thing.'

† D. 42. The Original of this † Letter being ſtopped, is, as your Committee are informed, in *Carte*'s own Hand-writing.

What is meant by theſe myſterious Paſſages about *Arrack*, muſt be left to the Conjecture of the Houſe.

† D. 10. * D. 1. If this be compared with the Biſhop's † Letter to *Dillon*, and with * *Pancier*'s Depoſition, it is not improbable, that by *Arrack* may be meant Contributions of Money.

But whatever is meant by it, the Committee obſerve, that it was a point of the greateſt Importance to the Conſpirators, ſince it was thought neceſſary to be laboured by a Perſon ſent from *France* on purpoſe; and the Biſhop's Reluctancy to come into it argues it to have been ſomething very dangerous, and beyond the ordinary Lengths of his Compliance.

And they obſerve that the principal Direction of the Conſpiracy under all the Diſguiſes of *Stock*, *Manuſcripts* and *Arrack*, is ſubmitted to the Biſhop's Judgment, on which, it is often ſaid, they do entirely rely.

Your

Your Committee having thus laid before you the principal Matters in the intercepted Correſpondence, that relate to the Biſhop of *Rocheſter* more immediately, will now proceed to ſtate to you what they find in the ſame Correſpondence relating to *George Kelly*, who as has been ſhewn before, acted ſo much under the Direction and Influence of the Biſhop, that it cannot be ſuppoſed he would take any Step of Conſequence in an Affair of this Nature, without the Biſhop's being at leaſt made privy to it.

The Committee forbear repeating what was mentioned before about the Heads of Memorials to the Regent brought by *Kelly* to *Neynoe*; but they find ſome farther Particulars [a] in *Neynoe*'s Papers relating to *Kelly* alone. [a] *E.* 7. 8. 9.

'That *Kelly* had owned to him his having been formerly at *Avignon* while 'the Pretender was there; that at his Return from *France* laſt Winter, he 'brought over ſeveral Papers and Letters, and among the reſt, one in *French*, 'in the Hand-writing of *Dillon*'s Secretary, intituled, *Reaſons humbly offered 'to Cardinal* Du Bois, *proving that the eſtabliſhing the Houſe of* Stuart *on the 'Throne of* England, *preferably to that of* Hanover, *is the real Intereſt of the 'Crown of* France, or to that Effect. That this Piece was brought to *Neynoe* 'to be tranſlated, which being written by a Papiſt, and turning much on the 'Advantage that would accrue to Popery, *Neynoe* adviſed againſt publiſhing 'it.

'That *Kelly* told him at other Times, that one hundred thouſand Pounds, 'nay fifty thouſand Pounds would be ſufficient for bringing in the Pretender, 'and that he would warrant that Sum would be found.

'That whenever there happen'd to be a Stand made for the Pretender, great 'Numbers of Volunteers from *France* would appear for him, which agrees with the Accounts ſent from thence, and with the [b] Letter from *Dillon*'s Secretary about ſecuring *Sadlers*, which *Kelly* explained to *Neynoe* to mean *Iriſh* Soldiers. [b] *E.* 37.

Neynoe farther ſaid, 'That *Kelly* propoſed to him to go over to *France*, and 'to ſettle in Lord *Lanſdown*'s Family, where he ſaid he might be of Service, 'and promiſed to make his Reception eaſy. And your Committee obſerve, that the very Time, when *Neynoe* was taken going to *France*, *Kelly* [c] writ to *Dillon*'s Secretary, 'That he would ſoon ſee a young Fellow, whom he had 'mentioned to him ſome time before, and that he might rely on his Honeſty. [c] *E.* 73.

Neynoe farther declared, 'That *Bingley* his Fellow-Traveller (now in Cu'ſtody) lodging in the ſame Houſe with *Kelly*, when *Kelly* was firſt taken up, 'burnt a Bundle of Writings, he had that Day received from *Kelly*.

John Malone (formerly Servant to Mrs. *Barnes*) who waited on *Kelly* at his Lodgings, [d] has depoſed, that this *Neynoe*, *John Plunket* now in Cuſtody, *Carte* and *Dennis Kelly*, often viſited *George Kelly*. [d] *E.* 24.

As *George Kelly* is frequently deſigned by a great Variety of fictitious Names in the intercepted Correſpondence, the Committee think it proper firſt to appriſe the Houſe, what Reaſon there is to aſſert, that thoſe Names do really belong to *Kelly*, and then to ſhew the Nature and Import of the Correſpondence carried on under thoſe Names.

It appears to your Committee, that ſince the Beginning of *April* 1722. (the Time of *Kelly*'s laſt Return from *France*) a great Number of Letters going to *France*, were by Order of the Government opened, and Copies of them taken, and that ſeveral of thoſe Letters, tho' ſign'd by different Names, were [e] obſerved by the Clerks who copied them, to be all in the ſame Hand-writing, and [f] one of the Originals having been ſtopped for a Specimen of the Hand, and having been ſhewn to *John Malone*, he has [g] depoſed upon Oath, that he had often ſeen *George Kelly* write, and that he believes it to be his Hand. [h] Three other Papers ſeized at Mrs. *Barnes*'s, having been ſhewn to *Malone*, he has ſworn them ſeverally to be *Kelly*'s Writing, and the ſame three Papers having been ſhewn to the Clerks of the Poſt-Office, they have ſworn, That to the beſt of their Knowledge and Belief, as well the original Letters ſtopped, as the others ſent forwards, which were ſigned, ſome of them *Johnſon*, others *Hatfield*, *J. J.*, *G. H.*, and *Wilkins*, were all in the ſame Hand with thoſe three Papers ſo atteſted. [e] *E.* 19. [f] *E.* 21. [g] *E.* 20. [h] *E.* 19.

This general Proof fixes ſeveral of the Names to belong to *Kelly*; and it is remarkable that if any one of the Names above-mentioned be allowed to belong to *Kelly*, all the reſt by which he ſigns or is directed to, may, by the Series of his Correſpondence, be ſhewn to belong to the ſame Perſon.

But your Committee farther obſerve, that almoſt every individual Name he makes uſe of, is attended with ſome particular Proof, which determines it to belong to him; of which Notice will be taken as the Names are mentioned.

It has been obſerv'd already that he came from *France* about the Nineteenth of *December*, N. S. 1721. and that a [i] Letter was found among the Biſhop's Papers dated the ſixteenth of *December*, in which mention is made of a Letter received by *Johnſon*, and an Anſwer returned ſome time before in *Johnſon*'s Hand.

[i] *D.* 6.

[k] *E.* 10. *Neynoe* [k] declared that the laſt Memorial to the Regent, which *Kelly* employed him to draw up, was in *December* 1721, and that it contained a Demand of Five Thouſand Men for the Aſſiſtance of the Conſpirators; in *February* following [l] *Kelly* went again to *France*, and towards the end of *April* the Government received unqueſtionable [m] Accounts, that repeated Application had been made to the Regent for ſuch a Body of Forces.

[l] *E.* 17.

[m] *A.* 2.

[n] *D.* 11, 12 The Biſhop in his [n] Letters (writ ſoon after *Kelly*'s Return from *France*) acknowledges the Receipt of a Letter and verbal Inſtructions from *Marr* by *Hatfield*, and of a Letter by the Pretender from the ſame Hand, and mentions *Hatfield* as knowing his preſent Unfitneſs for Buſineſs.

But the Letters ſigned *Hatfield*, which were copied at the Poſt Office, are [o] ſworn to have been in the ſame Hand with other Papers which are ſworn to *Kelly*'s Handwriting, and it appears by a [p] Letter from *Marr* to *Hatfield*, that he was the Perſon to whom the Dog was ſent for *Illington*, which ſhews *Hatfield* to be *Kelly*, and confirms *Neynoe*'s Information, that *Kelly* received Letters directed by the Name of *Hatfield*; and it appears that he not only brought over Letters from *France*, agreeably to what was told [q] Mrs. *Levett* by Mrs. *Barnes*, and confirmed by *Neynoe*; but that he was truſted with a Letter to the Biſhop from *Jackſon*, the Name made uſe of for the Pretender in [r] *Plunket*'s Cypher, which Cypher it is evident *Kelly* was no Stranger to, ſince he makes uſe of ſeveral other [s] Names found in that Cypher, to denote the very ſame Perſons that are there expreſſed and deſigned by thoſe Names.

[o] *E.* 19.

[p] *E.* 32.

[q] *E.* 6.

[r] *C.* 51.

[s] *Lane*, *Howell*, *Xoland*, *Cane*.

On the Twenty firſt of *April Dillon*'s [t] Secretary writes to *Joſhua Vernon* (which will be ſhewn to be another of *Kelly*'s Names) congratulating his ſafe Return; and tells him, 'That his firſt Letter was very pleaſing to Mr. *Lane* (which is 'explained Lord *Marr* in *Plunket*'s Cypher) who waited with much Impatience 'for thoſe of *Monday*, hoping to receive a more particular Account of his Bills, 'which he daily becomes more preſſed for, the Proſpect of a good Vintage 'encreaſing by late Showers which had dropped there, and raiſed the Spirit 'of the Labourers; he adds, that it ſeems more plain, that on Advances of 'ready Money, good Bargains may be propoſed.

[t] *E.* 30.

He afterwards tells him, 'That *Dillon* adviſes, the Money, which *Kelly* 'mentioned in *Clynton*'s Hands, ſhould be equally divided between *Medley* 'and the Pretender'; who *Clynton* is does not appear to the Committee, but they ſee Reaſon to believe from Paſſages in other Letters, that *Medley* means the late Duke of *Ormonde*.

He then tells *Kelly*, 'That *Farmer* and Family are well, and that Mrs. *Hughes* 'became ſo very uneaſy ſhe was diſmiſſed and is on return.

This Paſſage ſhews, that *Farmer* means the Pretender, it being well known that Mrs. *Hughes* was Nurſe to the Pretender's Child, and was on her Return to *England* about this time.

From this Letter your Committee obſerve, that *Kelly* was employed by *Marr* and *Dillon* in ſolliciting Supplies for the Service of the Conſpirators, and that he had acquainted them of a Sum of Money lodged in the Hands of one, whom they call *Clynton*, which they adviſed ſhould be equally divided between the Pretender and *Ormonde*; whether *Kelly* was conſiderable enough to have this Advice ſent him for his own Government and Direction, or was only

only to be the Channel for conveying it to ſome other Perſon of greater Diſtinction, is left to the Conſideration of the Houſe.

On the Twenty third of *April* (as has been obſerved above) *Kelly* ſent the Biſhop's Pacquet of Letters under Cover to *Gordon* at *Boulogne*, with [u] Orders to him to deliver it to a *tall black Man*, who would ſoon call on him for it. [u] E. 26.

This Perſon is in other Letters called *Crow*, and appears to your Committee by ſeveral concurrent Proofs to be *James Talbot*, an Iriſh Papiſt, concerned in the *Preſton* Rebellion, and now in the *Spaniſh* Service.

Kelly in his [w] Examination before the Committee owned his being intimately acquainted with this *Talbot*, and his having ſeen him the Morning he left *England*, and a [x] Letter ſigned *J. Talbot* was ſiezed among Mrs. *Barnes*'s Papers, in the ſame Hand with a [y] Letter ſent from *France* to *Kelly* ſigned *J. T.* which is an Anſwer to [z] one writ by *Kelly* to *Crow*. [w] E. 81. [x] E. 3. [y] E. 62. [z] E. 55.

On the Twenty ninth of *April* [a] *Gordon* acknowledges the Receipt of a Pacquet (already proved to be the Biſhop's) and ſays he delivered it to the Gentleman as he was directed, who ſet out for *Paris* on the Thirtieth of *April*. On the firſt of *May Dillon*'s Secretary [b] writes to *Kelly*, 'Your Friend 'Crow is arrived ſafe, and delivered the *three Books you gave him*, as directed. [a] E. 34. [b] E. 37.

On the ſecond of *May Dillon* himſelf [c] writes to *James Baker* (which will be ſhewn to be another of *Kelly*'s Names) and ſays, 'I ſaw your Acquaintance 'Crow two Days ago, who delivered me a Preſent from my Couſin *Jones*. [c] E. 38.

And on the ſame Day *James Talbot* [d] writes to *Kelly*, 'That Mr. *Gordon* 'gave him the Pacquet at *Boulogne*, which he delivered ſafe on *Monday* laſt as 'directed; he adds, the Perſon received me very obligingly, and was much 'more open to me than I expected. Then, and ſince, he let me know *he does* 'not deſpair of doing his Buſineſs. [d] E. 40.

On the ſeventh of *May*, *Kelly* [e] writes to *Dillon*, 'That *Illington* was glad 'to hear he had received his Letters by *Crow*, and wiſhed his next might be 'more to *Dillon*'s Satisfaction. [e] E. 41. a

From theſe Paſſages it appears at one View, that the Biſhop's Letters were ſent by *Kelly* to *Boulogne* by the Poſt; and thence conveyed to *Dillon* at *Paris* by *Talbot*, *Kelly*'s intimate Friend.

On the Twenty fourth of *April Dillon*'s Secretary [f] writes to *Kelly* a long Account of one *Xoland (Nicholas Wogan)* who was to command one of the Ships that was to be hired of ſome *Swediſh* Merchants at *Cadiz*. [f] E. 31.

This agrees with Mr. *Craufurd*'s [g] Letter of the Twenty fifth *July* N.S. 1722. in which he ſays that *Nicholas Wogan* was to have the Command of one of the Ships under *Morgan*, one of which having been lately taken at *Genoa*, the Commander (as your Committee are informed) has writ [h] over hither, that ſhe was hired of ſome *Swediſh* Merchants at *Cadiz*, with ſeveral other Circumſtances, which agree entirely with this Letter to *Kelly*, and ſhew for what Uſe thoſe *Swediſh* Ships were hired. [g] A. 32. [h] A. 45.

In the ſame Letter *Dillon*'s Secretary takes Notice 'How kindly *Freeman* '(the Pretender) had ſpoken of *Kelly* in his laſt.

On the Thirtieth of *April Kelly* [i] anſwers this Letter, but calls *Nicholas Wogan* by the Name of *Moore*, and ſays, '*I wiſh his Chief may ſucceed in his* 'Journey; which being compared with the [k] Accounts ſent about that time from Mr. *Davenant* at *Rome*, that the Pretender was preparing to embark, makes it more than probable that he is *the Chief*, to whom *Kelly* wiſhes Succeſs. [i] E. 35. [k] A. 3.

Kelly then gives an Account of a very important Converſation he had with one *Hore*; who is meant by *Hore*, your Committee will not take upon them poſitively to determine, but by comparing ſeveral Paſſages of the Letters together, it appears to them highly probable, that it is Sir *Harry Goring*, in which Opinion they are the more confirmed by *Hore*'s being mentioned as ill of the Gout in *France* on the fourteenth of *September*, and *Kelly* takes notice in his [l] Pocket Book that Sir *H. G.* went to *F.* the twenty third of *Auguſt*, which was the Day before the Biſhop was taken up. [l] E. 17.

In

In this Letter *Kelly* says, 'Hore is moſt impatient to have a more ſatisfacto-
'ry Account from your Side, and hopes there may be room now to expect it,
'ſince there was nine remitted by *Repney*, he will ſoon, as he tells me, ſend
'you two more, which with the twelve thouſand Arms provided by *Mansfield*'s
'(*Ormond*'s) Relations, and which are now ready to be ſent where-ever de-
'ſign'd, and paid for too, will he hopes bring Matters to ſome Proſpect of
'bearing.'

Your Committee obſerve, that this Impatience of *Hore* falls in, in point of
[m] *B.* 10. Time, with the [m] Account Lord *Orrery* gave *Layer*, that Lord *North* and *Grey*,
Sir *Harry Goring*, Lord *Strafford*, and others, were going to do a raſh thing
in favour of the Pretender. That it likewiſe agrees with the [n] Letter to *Dodſ-*
[n] *A A.* 6. *worth* mention'd in the former part of the Report, where it is ſaid, 'That
'the Hopes given by *G.* to expect a great Sum, and by *N.* that he had raiſed
'twenty thouſand Pounds, induced *Ormond* to ſupply *Morgan*, and to make
'other neceſſary Proviſions;' part of which Proviſions appear to have been
[o] *A A.* 5. the twelve thouſand Arms mention'd in [o] *Ormond*'s Letter of the 27th of *April*,
[p] *A.* 15. in [p] Mr. *Stanhope*'s the 8th of *June*, and again in this Letter of *Kelly*'s.

Kelly adds, 'That he hears *Ormond* continues ſtill upon the old String, that
'he can get no Officers, and ſays, I wiſh the ſending over *Hore*'s, *&c.* Com-
'miſſions may not do more Hurt than Good, for that Affair is already become
'no Secret, and may pique ſome Friends, as well as put Ill-wiſhers on their
'Guard.'

This Paſſage ſhews that the Scheme for an Inſurrection was at that time in
ſuch Forwardneſs, that Commiſſions were actually ſent over; and confirms the
Account of the late Duke of *Ormond*'s being expected with Officers and Arms
to ſupport it.

[q] *E.* 37. On the 1ſt of *May* O. S. *Dillon*'s Secretary [q] writes to *Kelly*, 'That he be-
'lieves they have a ſufficient Quantity of *Barrels* beſpoke, for the *Wine* they
'intend to buy; and that he hopes *Clynton* and Company have ſent *Malcom*
'half Money, which *Hore* ſaid he had, to pay for the *Barrels* which *Jacobs*
'has at his Diſpoſal.'

It has already been ſhewn that *Malcom* means the Pretender, and as *Clynton*'s
Money, which was before to be divided between *Ormond* and *Jackſon*, is now
to be ſent half of it to *Malcom*, this is a farther Confirmation that *Jackſon*
[r] *A.* 6. means the Pretender; and agrees with the [r] Intelligence from *France* of Sums
ſent about this time to *Ormond* and the Pretender.

[s] *E.* 39. In a Letter to *Kelly* of the 2d of *May* was incloſed one [s] from *Dillon* to *Jemi-*
[t] *E.* 57. *ſon*, who appears to be ſome intimate Friend of *John Plunket*'s, and [t] was preſent
in *France*, when the Cyphers were ſettled between *Dillon* and *Kelly*, but his
real Name is undiſcover'd.

In this Letter *Dillon* acquaints *Jemiſon*, 'That Mrs. *Freeman* intends to
'bring her Cauſe to a Tryal as ſoon as poſſible, and that he believes Mr. *Abel*'s
'Departure will be no Detriment to her Pretenſions.' This Paſſage compared
with other Letters, ſhews that by *Freeman* is meant the Pretender, and by
Abel his Majeſty, and confirms the Deſign of an Inſurrection at the Beginning
of *May*.

Dillon then deſires *Jemiſon*, 'to aſſure his Couſin *Rogers* (*John Plunket*) of
'his beſt Reſpects, and how much he depends on her friendly and kind
'Offices in his Family-Concerns, which have great need of ſo good Aſſiſtance.'

[v] *C.* 73. *Plunket* being [v] examin'd by the Committee in relation to this Letter, denied
his knowing any ſuch Perſon.

[w] *E.* 41. *a.* On the Seventh of *May*, *Kelly* [w] writes to *Dillon*, acknowledging the Re-
ceipt of the Letter for *Jemiſon*, mentions a long Diſcourſe he had with one
whom he calls Mr. *Fox*, who reſented his being put out of the Pretender's
Service by *Dillon*; but *Kelly* endeavour'd to convince him that *Dillon* had no
hand in it, and laboured to regain him. Who *Fox* is, does not appear to
your Committee.

Kelly then takes notice, 'That the Pretender's Favours to *Hore*, &c. had
'given great Offence, and that *Rogers* (*Plunket*) hearing of the Freedom

'which

'which *Hore* and ſome of his Partners took with him, is much diſobliged at 'it, and had order'd *Jemiſon* to tell *Dillon* ſo.'

Your Committee obſerve from this Paſſage, that *Plunket* is treated as one whom it was thought of conſequence not to diſoblige, and that *Kelly* was apprized of his Intimacy with *Dillon*.

Kelly then gives an account of his having called on Mrs. *Medley*'s (the Dutcheſs of *Ormond*'s) Chaplain. The Letter which deſired him ſo to do, was directed to *James Baker*, and this in which he ſays he has called upon the Chaplain is ſigned *J. J.* which ſhews that *James Baker* is the ſame with *J. J.* which are the initial Letters of *James Johnſon*.

On the Tenth of *May Kelly* [x] writes to *Dillon*'s Secretary an Account of the Diſcoveries made by the Government, and the Encampment of the King's Forces; but your Committee obſerve his Aſſurances of Succeſs were ſo ſtrong, that in the ſame Letter he ſays, 'The King will go abroad next Month, and 'if you can then compaſs *Barrels* enough, the ſooner the *Wine* comes, I be-'lieve, the better. [x] *E.* 44.

On the Nineteenth of *May* he was taken into Cuſtody; and it appears to your Committee by the [y] Depoſition of one of the Meſſengers who ſeized him, that when he was ſeized he offered to draw his Sword, but was prevented. That the other Meſſenger being called out of the Room to reſcue one of their Companions, who was in Danger of being murdered in the Street, *Kelly* called to the People of the Houſe to lock the Door, and ſeizing his Sword, which had been laid by in the Window, drew it, and made a Paſs at the Meſſenger, who verily believes he did it with an Intention to murder him; that he afterwards made a ſecond Paſs, and ſwore if he came in again he would ſtab him; and ſaid, that if the Secretary of State who ſigned the Warrant had been there, he would have done the ſame. That the Meſſenger going out to call for help, and returning within a Minute, was told, that *Kelly* had in the mean time burnt one of the Papers ſeized upon him. [y] *E.* 5. *a.*

Another of the Meſſengers [z] has depoſed, that before *Kelly* offer'd this Violence, he had been ſhewn by the Meſſengers the Scutcheons or Badges of their Office, and likewiſe had been ſhewn their Warrant ſigned by one of the Secretaries of State; that the Warrant was alſo ſhewn to a Perſon preſent in the Room, who peruſed it, and declar'd to *Kelly*, that it was a ſufficient Authority for apprehending him. [z] *E.* 5. *b.*

Your Committee think it unneceſſary to make any Obſervation on a Behaviour, which implies his having ſo ſtrong a Senſe of his own Guilt, that he rather choſe to ſtand all the Conſequences of reſiſting and aſſaulting his Majeſty's Meſſenger in the Execution of his Office, than to let his Papers fall into the Hands of the Government, fearing (as may juſtly be concluded) that ſuch a Diſcovery might prove fatal to himſelf as well as others.

But your Committee find, that however careful he was to deſtroy all his Papers, yet one was ſeized upon him and preſerved, which is of it-ſelf ſufficient to prove him concern'd in the treaſonable Correſpondence above ſet forth.

It was a Liſt of Directions in the following words:

To Anthony Saunders *Eſq*; *or Mr.* Joſhua Vernon *at* Will's *Coffee-Houſe*, Covent-Garden, London.
To Mr. James Baker, *or* Arthur Stephens *Eſq*; *at* Burton's *Coffee-Houſe in* King's-Street, *near* St. James's, London.

By the three firſt of theſe Names moſt of the Letters to him above-mentioned came directed; and your Committee find, that a Perſon having been employed to watch at *Burton*'s Coffee-Houſe who ſhould take up Letters directed to Mr. *James Baker* at that Houſe, has [a] depoſed upon Oath, that on the Fourteenth of *May* a Letter ſo directed being left there by the Poſtman, *George Kelly* came in and took the ſame, opened and read it, and went out of the Houſe with a Letter in his Pocket to Mrs. *Barnes*'s. [a] *E.* 36.

[b] *E.* 1. It appears to your Comittee, that when he was [b] examin'd before the Lords the Twenty-firſt of *May*, 1722. he endeavour'd to account for his receiving Letters by various Names, by ſaying, That one Mr. *Talbut*, who was under a Cloud, and who went for *France* or *Spain about a Week before*, had deſired him to call at Coffee-Houſes for Letters directed to the ſaid *Talbot* by ſeveral Names; and particularly that the Letter directed to *Baker*, which he own'd he took up, was for the ſaid *Talbot*. Yet your Committee obſerve that the ſaid *Talbot*

[c] *E.* 34. [d] *E.* 40. [c] arrived at *Boulogne* on the Twenty-fifth of *April*, and did himſelf ſend a Letter from *Paris* to *Kelly* on the Second of *May*, ſigned *J. T.* directed to *Mr.* James Baker *at* Burton's *Coffee-Houſe aforeſaid*, and Letters [e] continued to be

[e] *E.* 46. ſent by that Direction from *Paris*, till the time that *Kelly* was taken into Cuſtody, tho' *Talbot* was all that time in *France*.

[f] *E.* 81. *Kelly* being [f] examin'd by your Committee in relation to theſe Letters, perſiſted in the ſame Account, that they were for *Talbot*, and that the occaſion of *Talbot*'s going abroad, was, that *Talbot* had received an account of General *Crofton*'s being dead, and of his having left him what he had. Which Particular, your Committee obſerve, agrees in part with *Neynoe*'s [g] Account, that

[g] *E.* 10. *Kelly* had ſhewn him a Letter at *Burton*'s Coffee-houſe, from *Dillon*'s Agent or Secretary, in which it was ſaid, that the Death of General *Crofton* would be a great loſs to *Mansfield*, which Name *Kelly* explain'd to him to mean the late Duke of *Ormond*.

[h] *E.* 81. *Kelly* farther [h] owned to your Committee, 'That he went to *France* the Beginning of the Winter 1721. and again the Spring following, on account of 'Tranſactions he had in the Stocks there; that he was deſired by a Brother 'of the Lord *Dillon*'s to carry over to General *Dillon* an Act of Parliament re-'lating to the Eſtate of that Family, but that this was the only Paper he car-'ried; that he ſaw *Chriſtopher Glaſcock*, who is a Captain in *Dillon*'s Regi-'ment, and knew Sir *John D'Obryan*, who is *Dillon*'s Secretary, and had like-'wiſe ſeen *Colin Campbell* of *Glenderoule* at Coffee-houſes, but had never ſpoke 'to the latter.'

Yet your Committee obſerve, that as in his Letters he often ſends Services to Sir *John* and *Chriſty*, he does alſo to *Glen* and *Collins*, which laſt Name is

[i] *F.* 11. *a.* explain'd *Glenderoule* in his own Cypher [i] taken among *Dennis Kelly*'s Papers.

[k] *E.* 1. And when he was examin'd before the [k] Lords, he own'd his having receiv'd Letters from one *Glaſgow* at *Paris*, which Name in *Plunket*'s Cypher is expreſſed by the fictitious Name of *Howell*, and has been ſhewn above to mean the ſame with *Quitwell*, *Querry*, *Bonnaville*, and other Names which belong to *Dillon*'s Secretary, and are ſubſcribed to ſeveral treaſonable Letters from *France*.

Kelly denied to your Committee his being at all known to the late Lord *Mar*, or *Alexander Gordon* of *Boulougne*, tho he own'd his going by the Name

[l] *E.* 26 [m] *E.* 34. [n] *E.* 32. of *Johnſon*, by which Name the [l] Letter to *Gordon* was ſigned, and the [m] Anſwer from *Gordon* directed; and the [n] Letter from *Mar* was directed to *Hatfield*, which Name has been ſhew'n to mean the ſame Perſon as *James Johnſon*, and has been prov'd by other Circumſtances to belong to *Kelly*.

He own'd his writing to a broken Banker at *Paris* by a fictitious Name in relation to Stocks, but ſaid that he had forgot the Name, and that he never received a Letter in his Life ſigned by a fictitious Name.

But your Committee had reaſon to believe from the whole Tenour of his

[o] *E.* 81. Behaviour at his [o] Examination, that he groſly prevaricated with them; for at his firſt coming in, before he would make any Anſwer, he very formally inſiſted that nothing he ſhould then ſay ſhould be made uſe of againſt his own Life, nor as Evidence againſt any other Perſon: and upon theſe Conditions he promiſed to anſwer directly to all Queſtions that ſhould be ask'd him.

Your Committee ſeeing ſome Reaſon from the manner of his inſiſting upon theſe Conditions, to believe that he was diſpos'd to act ingenuouſly with them, order'd him to withdraw, that they might conſider amongſt themſelves, how far it was in their Power or proper for them to agree to Conditions, which would

would have made his Examination of no Effect; and upon his being called in again, and receiving ſuch Anſwer as the Committee thought it in their Power to give, he deny'd his knowing any thing at all of the Conſpiracy. This your Committee apprehend to be altogether inconſiſtent with the Conditions he inſiſted on, which manifeſtly imply'd that a Confeſſion of all he knew, might endanger his own Life, as well as affect other Perſons; but in the Courſe of his Examination he owned to them, that the Promiſe they had given him, was not ſatisfactory, tho', as he pretended, he could not have anſwer'd their Queſtions in any other manner, if their Promiſe had come up to the Conditions he inſiſted on.

Your Committee obſerve, that *Kelly* was admitted to Bail from his firſt Confinement about the ſeventh of *June* laſt, and they conceive it to be a great Aggravation of his Guilt, that he immediately took Advantage of this Enlargement to reſume the ſame treaſonable Correſpondences, and to ſend triumphant Accounts to *France*, of his having baffled the Government by the harden'd Obſtinacy of his Behaviour, thereby improving, as far as in him lay, the Liberty granted him by the Favour and Indulgence of the Laws, to the Subverſion of our happy Conſtitution. For on the eleventh of *June*, but a very few Days after his being out on Bail, he ſent a long [p] Letter to *Gerrard*, (whom your Committee believe to be Sir *John D'Obryan*, as has been already obſerv'd) in which, the better to diſguiſe the Matter, he gives an Account of his Couſin's late Misfortune, as from a third Perſon; but in a [q] ſubſequent Letter to *Dillon* the eighteenth of *June*, he owns the writing this Letter himſelf. [p] E. 47. [q] E. 49.

In this Letter to *Gerrard* he ſays, 'That he was bail'd the *Thurſday* before, 'and that the Judges were never known ſo ſevere in any Caſe of the like kind, 'that moſt of the Queſtions ask'd him at his Examination were about a little 'Dog which he got from a Surgeon when he was laſt in *France*, that 'they mention'd no Perſons to him but General *Dillon*, and one Mr. *Morgan*, that to the firſt he owns he is a little known, having carry'd over an 'Act of Parliament to him that concern'd his Family, but that the latter he 'never ſaw; that Lord *Carteret* had a Liſt of five or ſix Cant Names, as he 'call'd them, which were *Illington*, *Jones*, *Cane*, *Howel*, *Quitwel*, and *Hacket*, 'and what he never heard of before; that however they would perſuade him 'he knew ſome Perſons that were meant by thoſe Names, which he vows he 'never did, and whoſoever *Illington* is, he was the Perſon principally ſtruck at. 'That he is not at all ſatisfy'd with the Behaviour of his Friends, that *Gerrard*'s 'old Friend *Rig* indeed offer'd all that could be expected of the poor Man, 'but others in whoſe Power it was to do more, ſhew'd no Concern at all for 'his Misfortune, that he lay ten Days in the cloſeſt Confinement, without ſo 'much as a Meſſage from any of *thoſe* that he depended moſt upon; that it is 'well he had no Secrets to reveal, ſince ſuch Uſage might provoke a paſſionate 'Man, and that the World is pretty well convinc'd, that he had not, ſince 'no Perſons ſeem'd to be the leaſt apprehenſive that he could do them any 'Miſchief.

'That this ſhews what the Friendſhip of ſome People is; but whilſt 'there is *one righteous Perſon*, we muſt, for his ſake, overlook greater Miſ'fortunes.

'That he is very well, and under no great Concern for any thing as to 'himſelf but the Expence, having more than his own to anſwer.

'He concludes, with deſiring *Gerrard* to direct under Cover to Mr. *Andrews* 'at the *Dog* and *Duck* in St. *James*'s Street.

Your Committee find that after this Time ſeveral Letters did come from *France*, directed to Mr. *Andrews* at the *Dog* and *Duck*, and that the Maſter of that Houſe having been examined, [r] has depoſed on Oath, 'That one *Andrews* 'order'd him to take in Letters that ſhould come by the foreign Poſt ſo di'rected, and that three of thoſe Letters were directed to the *Dog* and *Duck* in '*King-ſtreet* by Miſtake, but were afterward brought to his Houſe in St. *James*'s [r] E. 50.

'Street,

Street, and taken up by *Andrews*, who happen'd to be there when they ‘ came in.

It appears farther to your Committee, that the ſaid *Andrews* having been
E. 51. examined, [s] has depoſed on Oath, ‘ That Mr. *Johnſon*, alias *Kelly*, deſired him ‘ to take in ſome Letters directed to him *Andrews* at the *Dog* and *Duck* Ale- ‘ houſe in St. *James*'s Street; that he received in the whole four or five in ‘ the Months of *July*, *Auguſt*, and *September* laſt, to the beſt of his Remem- ‘ brance, that they appeared by the Charge of Poſtage to be foreign Letters, ‘ and that he delivered them unopened to the ſaid *Johnſon*, alias *Kelly*, who ‘ paid him the Poſtage; that he, *Andrews*, knew nothing of the Contents, nor ‘ ever returned any Anſwer to them.

‘ E. 48. On the eighteenth of *June*, ‘ *Kelly* writes to *Crow* (*James Talbot*) giving him an Account of his late Misfortune, and the Reaſons of his Silence, and mentioning his Deſign of going over into *France*, as ſoon as his Appearance in *Weſtminſter-Hall* ſhould be over.

‘ He then ſends his Service to all Friends, particularly to Sir *John* and ‘ *Chriſty* (Sir *John D'Obryan* and *Chriſtopher Glaſcock*) and deſires *Talbot* to ‘ tell the latter he muſt find out ſome other Addreſs for him to write by, ſince ‘ he has good Reaſons for not uſing the former, which have prevented him ‘ from writing to him theſe ten Days paſt, and that if it were to a *French* Per- ‘ ſon, it would be ſo much the better.

Your Committee obſerve, that ſoon after a *French* Direction to Monſieur
[u] E. 54. *Maſonneuve* [u] was ſent over to *Kelly* by *Chriſtopher Glaſcock*, which *Kelly* made
[w] E. 21. uſe of for ſome time, and the [w] original Letter in *Kelly*'s Hand ſtopped at the Poſt-Office, is ſo directed. They likewiſe obſerve the Reaſons which *Kelly* ſays he had, not to make uſe of the old Directions, appear evidently to have been, that he was queſtioned before the Lords on the Names of *Howel* and *Quitwell*, which were the Names made uſe of for *Glaſcock*.

He concludes his Letter to *Crow*, with deſiring him to direct to him by the Name of *Wilkins* at *Will*'s Coffee-Houſe; and your Committee obſerve, that
[x] E. 62. not long after [x] a Letter came ſigned *J. T.* and ſo directed; which was ſtopp'd,
[y] E 3.. and is in the ſame Hand with the [y] Letter ſigned *J. Talbot* ſeized at Mrs. *Barnes*'s, which confirms *Talbot* to be *Crow*.

In this Letter to *Crow* was encloſed one from *Kelly* to *Dillon* by the Name of *Dixwell*; the Subſtance of which has been partly ſet forth in that Part of the Report, which relates to the Biſhop of *Rocheſter*. In this Letter ‘ he de- ‘ ſires to be excuſed from meddling in Buſineſs for ſome time; but ſays, it does ‘ not proceed from any Change of Opinion, or Reſentment of the little Con- ‘ cern that has been ſhewn him, but from a Conviction, that without chang- ‘ ing both their Method and their People it will be impoſſible to make any ‘ thing of it.

Kelly adds in this Letter: ‘ Your Correſpondents at *Will*'s and *Burton*'s are ‘ gone, and deſire you may write no more that Way, and when you do me ‘ that Favour, pleaſe to addreſs under Cover to Mr. *David Wilkins* at *Will*'s ‘ Coffee-Houſe, *Covent-Garden*, and not to *Andrews*, as I deſired.

This Paſſage confirms the Liſt of Directions to *Will*'s and *Burton*'s, found in *Kelly*'s Pocket; and ſhews that the Letters to *Wilkins*, as well as *Andrews*, were for *Kelly*, though, as is before obſerved, he denied the having ever received any Letter under a fictitious Name.

On

On the twenty eighth of *June James Talbot* [z] writes to *Kelly*, 'congratulat- [z] E. 53.
'ing him on his Enlargement and Behaviour, and expreſſing his Surpriſe, that
'he ſhould at ſuch a Juncture have Reaſon to complain of want of Friends.

On the ſame Day *Glaſcock* [a] writes to *Ireton* under Cover to *Andrews*; and as [a] E. 54.
Andrews delivered theſe Letters unopened to *Kelly*, this ſhews that *Ireton* is another Name for *Kelly*, of which the Matter of the Letters furniſhes abundant Proof.

In this Letter *Glaſcock* takes notice, that *Kelly*'s Letter to *Chitwood* came ſafe. This refers to *Kelly*'s Letter of the eighteenth to *Dixwell*, and ſhews *Chitwood* to be another Name for *Dillon*.

'That what he had recommended in relation to the New Book of Ac-
'counts would be obſerved, and that *Forreſter* had the ſame Advice given to
'him and *Ormonde*.' Who *Forreſter* is does not appear to the Committee, but as he is mention'd here with the late Duke of *Ormonde*, he is probably the Perſon, who wrote the Letters to *Dumville* and *Dodſworth* above-mentioned.

Glaſcock then tells him, 'That *Ormonde* had expreſſed much Concern for
'what had befallen *Kelly*. He afterwards deſires the Particulars of his Caſe,
'and to know what is wanting for paying off the Doctor's and Apothecary's
'Bills, acknowledges the Receipt of a Letter from *Rogers*, and enquires after *Jemiſon*.

On the Twenty eighth of *June Kelly* [b] writes to *Talbot*. 'Of the Neglect [b] E. 55.
'that had been ſhewn him, and the Reaſons that he had to decline any *farther*
'*Traffick* with the Merchants here; he ſays, if *Talbot* perceives no likely-
'hood of a *ſudden Change for the better*, he muſt retire to ſome cheap part
'of the Country, if *Dillon* allows of it; expreſſes his great Obligations to
'*Dillon*, and his readineſs to execute any *private* Commands of his'; and adds, (what appears to your Committee very remarkable) 'If I were in a
'Condition to bear the *Weight of publick Buſineſs*, *Dillon* ſhould never be at
'the trouble to employ another, but that he is heartily ſorry *Dillon* himſelf
'has done it ſo long, for ungrateful People on this Side; ſays, he never inten-
'ded to trouble his Friends on this Side on his own *private* Account, but *pub-*
'*lick ones of this nature* are what he thinks *they* ought to take care of, ſince
'they are beſt able to do it, and expect the *beſt Returns for it*.

Your Committee obſerve from theſe Paſſages, that, though *Kelly* would have it believed he only correſponded with Perſons in *France* on private Affairs, relating to the Stocks, yet he here owns in effect, that he had been truſted with Affairs of a *publick* Nature, and that thoſe Tranſactions having brought on him the Diſpleaſure of the Government, it was reaſonable for him to hope for Support from thoſe in *England*, who expected the beſt Returns from his and *Dillon*'s joint Labours.

Your Committee farther obſerve, that this Letter was directed to *Crow*, and yet in it was incloſed one from *Ireland*, relating to Family Affairs, directed to *James Talbot* Eſq;.

On the fourth of *July Glaſcock* [c] writes to *Kelly*, 'That *Dillon* intended to [c] E. 56.
'have ſent him a Letter of Credit by this Poſt drawn on Mr. *Harrold*, but
'kept it back till he heard from him, for fear by removal into the Countrey,
'or by any other Accident, it ſhould be loſt.

[d] *E.* 57. On the eleventh of *July Glaſcock* [d] repeats the ſame, and his Suſpicion that the Letters to *Andrews* had miſcarried. Then acquaints *Kelly* with kind Expreſſions that he had ſeen from Dr. *Freeman* and Mrs. *Malcom* (the Pretender and his Spouſe) in relation to *Hawksby*'s firſt Operation in his late violent Diſtemper.

Your Committee obſerve from what follows in this Letter, that, though in *Plunket*'s Cypher *Hawksby* ſtands for King *George*, yet in the Pretender's Cypher it ſtands for *George* without any addition, and appears for that Reaſon to be made uſe of to denote *George Kelly* in this Place. Be that as it will, it is evident from what follows, that *Kelly* is the Perſon here meant.

The Pretender's words mention'd in this Letter are as follows.

'*Hawksby*'s ſteddy and reſolute Behaviour in the firſt Operation anſwers 'the good Opinion I have long had of him; I am fully perſwaded that all the 'Surgeons will do hereafter ſhall not be able to alter his Temper, and I hope 'he will come off with Patience and a ſhort Confinement, by which his Health 'will become more perfect and ſatisfactory to his Friends.

Glaſcock then adds, 'Mrs. *Malcom* (the Pretender's Spouſe) in her ſhort way 'of Expreſſion, ſays, *I am truly glad that honeſt* Hawksby *is recover'd, for I 'take him to be a very valuable Man.*

Then he ſays, 'I know theſe Compliments will be comfortable to a ſick 'Perſon from his Friends, for which reaſon I trouble you with them, as a 'Proof of my attention towards one I wiſh ſo well.

Theſe laſt words ſhew, that this Comfort was intended for *Kelly*, to ſupport him under his Trouble, which is diſguis'd under the Notion of Sickneſs, and your Committee think it unneceſſary for them to make any Obſervation on a Paſſage, which ſhews ſo plainly *for whoſe ſake* it was underſtood he had brought this Trouble on himſelf.

Glaſcock next tells him, 'That as he is upon regulating his new Book of Ac- 'counts, he ſhould be glad to know whether *Kelly* and *Jemiſon* had thoſe by 'them, they and *Glaſcock* rectify'd together.

This ſhews that *Kelly*'s Journeys into *France* were not wholly on private Affairs, and confirms [e] *Neynoe's* Account of his having ſeen Cyphers in *Kelly*'s Hands, and is again confirm'd by the [f] Cypher found among *Dennis Kelly*'s Papers, which is in *George Kelly*'s Hand-writing.

[e] *E.* 10.
[f] *F.* 11. *a.*

Glaſcock then ſends him the *French* Direction he had deſired.

[g] *E.* 58. On the ſeventeenth of *July Glaſcock* [g] writes again to *Kelly* to let him know, why the Bill was not ſent, and to deſire a ſure Addreſs. He likewiſe cautions *Kelly* not to draw any more on *Digby*, but on Meſſieurs *Chitwood* and *Dupleſſis*, *at Mr. Hues Banker rue de la Monnoye*. Your Committee obſerve, that this was about the time that Mr. *Crawfurd* [h] made the Diſcovery above related about the Name of *Digby*, and that for ſome time after *Kelly* directs his Letters for *Dillon* to *Dupleſſis*, till a new Cypher, which he, *Kelly*, ſent over afterwards, came to be made uſe of.

[h] *A.* 31.

On

On the nineteenth of *July* *Kelly* [i] writes to *Glaſcock*, that Mr. *Andrews* received the ſeveral Letters from *Glaſcock* all together; which was occaſioned by a Miſtake in directing them to *King's-ſtreet*, inſtead of St. *James's*; which agrees with *Andrews's* [k] Depoſition above-mention'd. [i] *E.* 59. [k] *E.* 51.

He then 'returns Thanks for the Letter of Credit intended him, and ſays 'it will come ſafe either to Mr. *Wilkins* at *Will's* Coffee-houſe, or to Mr. *Andrews* at the *Dog* and *Duck*'. This, compared with *Andrews's* Depoſition, ſhews that the Bill was for *Kelly* himſelf, which Obſervation the Committee think it proper to make, becauſe, when he was examined before them in relation to the Letters directed to *Andrews*, though nothing was ſaid to him about the ſaid Bill, he immediately endeavour'd to explain away that Matter by the following [l] Prevarication. [l] *E.* 81.

He ſaid, 'He had been deſir'd by one Mrs. *Oxburgh* in the City, Daughter 'to him who was executed, to receive ſome Letters for her from abroad, 'and that he did not know, but he might employ one *Andrews*, or ſome o-'ther Friend to take up ſuch Letters. That he had likewiſe received ſome 'Money on a Bill for the ſaid Mrs. *Oxburgh*, of a little Man a Banker in *Loth-'bury*, or ſomewhere behind the *Exchange*, and that he had endorſed the Bill 'with his own Hand.

Your Committee obſerve that this laſt Circumſtance makes it probable the Bill was for himſelf, ſince his Endorſement on a Foreign Bill (which is not uſually made payable to the Bearer) would not have entitled him to have received the Money, nor have been a ſufficient Diſcharge, except the Bill had been made payable to him.

They likewiſe obſerve, that Mr. *Martin Harold*, on whom the Bill was drawn, whom *Kelly* avoided to name, does live behind the *Exchange*, tho' not in *Lothbury*; and in *Glaſcock's* [m] Letter of the Twenty-fourth of *July*, *Kelly* is particularly directed to indorſe the Bill on *Harold* with his own Name. Your Committee ſubmit it to the Conſideration of the Houſe, whether it is not evident from theſe Circumſtances, that *Kelly* received the ſaid Money for his own uſe as a Reward for his Sufferings, and an Encouragement to perſiſt in his Obſtinacy. [m] *E.* 61.

On the Twenty-third of *July* *Kelly* [n] writes to *Talbot*, 'That this Bill, and 'the hopes of Succeſs in another Particular, when the Term is over, makes 'him a little eaſy.' [n] *E.* 60.

'That as to what they had ſo often talk'd about, he did not know what to 'ſay to it, and that *Nicholas Wogan's* Return gave him the leſs hopes of it, but 'that he heard the *Beautiful Squire* was certainly determin'd on ſomething, 'but when, and in what manner, is what he knows nothing of.' Who is meant by the *Beautiful Squire*, the Committee cannot take upon them to determine; but they obſerve this Letter was writ the Day after *Layer's* return by *Epping* from *Norfolk*, at which time he told [o] *Plunket*, 'That the Pretender's 'Friends would run down the Miniſtry and King *George* in a little time, and 'bring the Law-Suit to bear on their own bottom, independent of the Re-'gent, or any Body elſe'; as is related in *Plunket's* Letter of the ſame Date with this of *Kelly's*. [o] *C.* 63.

On the Second of *Auguſt*, *Kelly* [p] writes to *Glaſcock*, 'That he had received 'the Bill. That his Letter of Licence is not out till the end of *October*, and 'that his Creditors threaten then to ſhew him no mercy: In the mean time he 'muſt hope the beſt, and wiſh that ſome good Turn of Fortune may enable 'him to do them juſtice. [p] *E.* 66.

He adds, 'That he expected to have ſent the State of their Accounts before 'now, but that the Gentleman who was to carry them, met with an Accident 'the other Night, which prevented him, therefore he cannot do it till he re- 'covers, or ſome other Opportunity offers': Then ſends a long Account of *Dennis Kelly*'s being taken up.

[q] *E.* 67. On the Sixth of *Auguſt* [q] he ſends the ſame Account to *Dillon*, and mentions the great Terror the Guards are under from Informers; which Intelligence your Committee obſerve, was thought conſiderable enough to make an Article in the Pretender's late Declaration.

[r] *E.* 68. On the ſame day he ſends [r] *Glaſcock* an account of *Sample*'s, *Cotton*'s, and one *Campbell*'s being taken up; 'That there were Reports of one Sir *Harry* '*Goring*'s being taken, and of Forces being ſent for the Lord *North* and *Grey*, 'Lord *Strafford*, and other Perſons of Quality; but that he finds that there is 'no Truth in them, and is told that the two laſt are come to Town. He then 'deſires to know *Dillon*'s private Thoughts from whence the ill Report of 'his Couſin's Circumſtances comes, which has occaſion'd this Severity from 'his Creditors, and ſays, he hopes ſoon to ſend the State of their Accounts, 'which has hitherto been delay'd for want of a proper Hand.

[s] *E.* 69. On the Ninth of *Auguſt Kelly* [s] writes to *Glaſcock*, 'That *Den* is come to 'Town, and behaves like a Friend; but that *Rep* is ſtill in the Country, and 'ſo is *Ho*; and that the latter had earneſtly deſired *Kelly* to go to him for a 'few Days, which he had hopes of doing, but intended to make but a ſhort 'ſtay'.

Your Committee ſee reaſon to believe, that by *Ho* is meant *Hore*; and they find an Entry into *Kelly*'s Pocket-Book of his having been at Mrs. *H.*'s, and another Entry in theſe Words; *To enquire for Mr.* ——— *at Mr.* William Bayſing's *at* Horn-Dean, which is a Houſe much frequented by Sir *Harry Go-*

[t] *E.* 80. *ring*, as appears by a [t] Depoſition annexed to this Report.

Who are meant by *Den* and *Rep* your Committee will not take upon them to determine, though they think this Letter compared with that writ three Days before, may lead to a Diſcovery of the Perſons meant.

[u] *E.* 70. On the thirteenth of *Auguſt*, *Kelly* [u] writes again to *Glaſcock*, 'That he 'intends to viſit *H.* who being at a pretty good Diſtance in the Country, 'he cannot return under four or five Days. Which agrees with the Circumſtance of his going down as far as *Horn Dean* near *Petersfield*.

He afterwards adds a very remarkable Paragraph in theſe Words: 'What 'would you adviſe poor *Trotter* to do, he is ready to take a Voyage any 'where, and is you know an honeſt and fit Perſon for that Buſineſs; he has wrote 'very earneſtly to me for my Advice, which I told him I could not give till 'I heard from you.

Your Committee think it their Duty to obſerve to the Houſe, that in the

[w] *F.* 11. *a.* [w] Cypher found among *Dennys Kelly*'s Papers, in *George Kelly*'s own Hand-Writing, *Trotter* is one of the fictitious Names ſet over againſt the Name of *Carte*, and that on the Day this Letter was writ, His Majeſty had iſſued his Royal Proclamation for apprehending the ſaid *Carte*, againſt whom it is there ſet forth a Warrant had been iſſued by one of the Secretaries of State for Treaſonable Practices, and that he had abſconded and fled from Juſtice.

Yet it appears from this Letter, that *George Kelly*, far from diſcovering where the ſaid *Carte* was conceal'd, was deſirous to promote his Eſcape, by getting him invited to undertake a Voyage into foreign Parts; and that notwithſtanding the treaſonable Practices alledged againſt him, he here gives him the Teſtimonial of an honeſt Man, owns his having had Communication with him by Letter, after the Time of his Eſcape, ſolicited *Glaſcock* in his Favour, and undertakes to aid and aſſiſt the ſaid *Carte* with his Advice, as ſoon as he ſhould have an Anſwer from *Glaſcock*.

On the 13th of *Auguſt*, * *Glaſcock* writes again to *Kelly*, in relation to the Bill on *Harold*, and mentions his expecting the Gentleman ſoon that was to clear Accounts. * E. 71.

He afterwards tells *Kelly*, 'That Mrs. *Muſgrave* had received Advice from 'her Father, that ſhe is not to expect a Farthing of the Allowance due to her 'for the Time paſt, or to come, which *Allen* had procured a Seizure of, on 'account of her Husband's Debts and Miſmanagement.'

Your Committee from comparing this Letter with others, where *Muſgrave* is mentioned, and from obſerving the Date, ſee reaſon to believe, that this Paſſage relates to the ſtopping a Penſion, which the Committee are informed by his Majeſty's ſingular Bounty and Indulgence, and upon Application from the late Lord *Marr*, and Promiſe of Services, was allowed to him; and they cannot reflect, without Indignation and Aſtoniſhment, on the black Ingratitude of Perſons, who, while they were in a great meaſure ſubſiſted by his Majeſty's unexampled Liberality, were labouring by the moſt wicked and unjuſtifiable Practices to diſpoſſeſs him of his Crown, and to deſtroy his ſacred Life.

On the 17th of *Auguſt*, *Glaſcock* * writes again to *Kelly*, and among other things ſays, 'He is contriving to get at *Barker* for a Relief in favour of *Farmer*'s '(the Pretender's) Children, in caſe their Step-Father ſhould pretend to de-'prive them of their Due.' It appears by another † Letter, *Barker* means ſome conſiderable Perſon in *France*; but what this Paſſage particularly relates to, your Committee cannot with certainty determine. However, they have thought it their Duty to lay this and other obſcure Paſſages before the Houſe, that it may be ſeen how much it is in the power of Perſons now in cuſtody to diſcover; and of what Importance it is to the Safety of his Majeſty's Government, that ſuch Diſcovery ſhould be required at their hands. * E. 72. † E. 71.

On the 20th of *Auguſt*, three Days before the Biſhop of *Rochester* was taken into cuſtody, *Kelly* * writes to *Glaſcock* (the Original of which Letter is ſtopp'd, and ſworn to be his Hand-writing;) and ſays, Your Couſins *Ireton* and *Wilkins* are both gone into the Country, and earneſtly beg the favour of you not to write to them any more, *for which you will ſoon know the Reaſons.* * E. 21.

On the 30th of *Auguſt* he † writes to *Dillon*; and after giving a very long and particular Account of all the Circumſtances of the Biſhop's being taken up, examined, and committed to the Tower, he ſays, 'You are by this ſatisfy'd of 'the *Reaſons of my late Silence.*' Your Committee obſerve, That theſe Paſſages ſhew the Connection, which *Kelly* thought there was between the Biſhop and himſelf. † D. 45.

In the ſame Letter of the 20th of *Auguſt*, your Committee obſerve another very remarkable Circumſtance; *Kelly* ſays, that he is going to the Country that Day, and he had ſaid * before that he was going to Mr. *Hore*'s. * E. 69.

In his † Pocket-Book notice is taken, that Sir *H. G.* went to *F.* on the 23d. † E. 17.

On the 14th *Septemb. Glaſcock* || writes him word, 'That Mrs. *Hore* was 'under a Fit of her old Sickneſs at *Rouen*; but that it was not ſafe, for many 'good Reaſons, to have her tranſported to *Paris*, there being abundance of 'Quacks going about, which cauſe much Miſchief.' || E. 74.

From this time forwards *Kelly* makes uſe of a new *Cypher* of Names, and new Directions to his Letters.

On the 27th *Kelly* * writes again, and ſays, 'That ſince Mr. *G. Sampſon* 'went, he has not heard a Syllable from his Correſpondents in *France*, which 'has been a great Detriment to ſeveral of their Friends.' * E. 75.

On the 9th of *October* † *Glaſcock* ſends him word, 'That all the Letters he 'wrote *by the Poſt*, came ſafe; but that he had not yet ſeen the Perſon, who 'was to deliver him the particular Inſtructions and Addreſs he was to make 'uſe of, that Perſon being ſtill detained in the Country; but that he had taken 'meaſures to get from him the Memorandum *Kelly* had given him.' † E. 76.

On the 17th of *October*, *Glaſcock* || ſends *Kelly* word, 'That the Book of Ac-'counts ſent by *G. Saunders* is at laſt come to hand, tho' the Perſon that brought 'it is ſtill in the Country, ſo that they are now in a condition to ſettle Accounts || E. 78.

'with *Kelly*.' And from this time forward, the Correſpondents in *France* make uſe of a new Cypher of Names, and new Directions to their Letters.

From all theſe Circumſtances, your Committee ſee reaſon to believe, that *Kelly* ſent over a new Cypher, and a new Liſt of Directions to *France* by Sir *Harry Goring*; in which they are the more confirm'd, by obſerving that this new Cpyher appears fram'd in ſuch a manner, that the initial Letters of the real Names are always prefixed to the fictitious ones, which laſt are frequently varied, but the initial Letter never. This will be more clearly underſtood by inſtancing in one of the Names.

The Perſon who carried over the Cypher and Liſt of Directions from *Kelly*, is in ſome Letters call'd *G. Sampſon*; in others, *G. Stephenſon*, *G. Saunders*, and *G. Sandford*; and appears to be the ſame with Mrs. *Hore*, who was obſerved before to be probably Sir *Harry Goring*.

Your Committee farther obſerve, That all the Names made uſe of in the
* E. 17. new *Directions*, were enter'd by *Kelly* in the * Pocket-Book that was taken upon him when he was laſt ſeiz'd, with ſuch Marks and Obſervations before them, as need no great Explanation. Over-againſt the Names of *Bonnaville* and *Diſode*,
† E. 78. is writ the Abbreviation *Glaſ.* and a † Letter ſigned *Diſode*, having been ſtopped at the Poſt-Office, appears to be in the ſame hand as thoſe ſigned *Howell*, *Quitwell*, *Querry*, &c. which were ſhewn above to have been writ by *Glaſcock*. Over-againſt *Briſac* and *Du Puy*, is writ *Stur*; and your Committee find that Letters came for *Kelly* directed by theſe Names to *Sturgis's* Coffee-houſe. Over-againſt *Contade* and *Lunelle*, is writ *Slau*; and your Committee find, that Letters thus directed were left for him at *Slaughter's* Coffee-houſe.

The Committee are ſenſible, That their entering into ſo minute a Detail, muſt be tedious to the Houſe; but as the Conſpirators have been no leſs induſtrious, than they are obſtinate in concealing their Treaſon, your Committee have thought it their Duty to trace it through every Diſguiſe, as near as they could, and to lay before the Houſe every Circumſtance which may any way tend to a Diſcovery ſo neceſſary for the Safety and Quiet of theſe Kingdoms, and yet ſo little to be hoped for from the preſent Temper and Diſpoſition of the Conſpirators themſelves.

* E. 73. The firſt * of *Kelly's* Letters, writ in this new Cypher, is of the 10th of *September*, directed to *Bonnaville* (*Glaſcock*) under cover to *Hues*, Banker at *Paris*.

In this he ſays, I hope you have ſeen *G. Stephenſon* before now, and mentions a Trunk that he is ſoon to ſend to him; which Circumſtance ſhews he is the ſame Perſon meant by *G. Sandford* in other Letters.

He then takes notice of a young Fellow that he had recommended (which was obſerved before to be probably *Neynoe*) 'and earneſtly begs the Goods 'he carries with him may be diſpoſed of at any Rate; and, if poſſible, without 'Mr. *L. Crawford's* or his Partners being concerned in the Bargain.' Your Committee obſerve from *Neynoe's* Informations, that he was to be recommended by *Kelly* to Lord *Lanſdown's* Family. They likewiſe obſerve from ſeveral other Letters, that *Dillon*, upon the Caution given him by *Skinner* from the Biſhop of *Rocheſter*, was grown very jealous of his former Friends at *Paris*; from which Circumſtances, they think it probable, that by *L. Crawford*, is meant Lord *Lanſdown*.

He then adds, 'Your Couſin *C. Saunders* is well, and with a Friend in 'the Country, who will take particular care of her, till a better Service can 'be got for her.'

This compared with what he ſays in his Letter of the 13th of *Auguſt*, of *Trotter's* having writ to him for Advice, and wanting to be employ'd in a Voyage or other Buſineſs, makes it probable, that by *C. Saunders* is meant *Carte*.

He then adds, 'Your Relations *N. Crone* and *S. Farrel* have made ſeveral 'Bargains for ready Money in the third Subſcription; and as the time allow'd 'by Parliament for Non-Proſecution will be out, as ſoon as it ſits, their Cre-'ditors will then fall upon them and all their Friends, and put them in Jayl, 'except you can ſend them ſome Relief: And though your Actions are at a very

'very low price, however, I believe, they would be extreamly pleaſed to have 'them ſold at any rate, to enable them to pacify their Creditors on this ſide, 'and to put them in a ſtate of Safety.'

It has been obſerv'd that the Conſpiracy is often treated of under the Cant of *Stocks*, and whether this third Subſcription may not mean the third Period of Time fix'd by the Conſpirators, and the Relief deſired, be not ſome Aſſiſtance from abroad, is ſubmitted to the Conſideration of the Houſe.

That this Paſſage cannot be underſtood in the literal Senſe, is evident from its being ſaid, that the Time of Non-proſecution expires at the Sitting of the Parliament; but your Committee apprehend, that the Meaning of this Paragraph is fully explain'd by another in the ſame Letter, in which *Kelly* ſays, 'There is no Proſpect of the State Priſoners getting out 'till next Term, and 'if the *Habeas Corpus Act* be ſuſpended at the Meeting of the Parliament, 'they will remain during the Government's Pleaſure, and perhaps *have Company* '*enough.*' Who are meant by *N. Crone* and *S. Farrel*, is ſubmitted to the Conjecture of the Houſe.

His next * Letter to *Glaſcock* is of the 27th *Septr.* in which he complains, * E. 75. 'That he has not heard a Syllable from *D. Gainer* (*Dillon* probably) or *G. Ro-* 'berts (*Glaſcock* probably) ſince Mr. *G. Sampſon* (*Goring*) went, which has 'been no ſmall Detriment to ſome of their Friends.' He adds, 'The Term 'being ſoon at hand, we ſhall be much at a loſs how to manage without their 'Advice, which *G. Sampſon* poſitively promis'd to ſend a ſpeedy Account of.

'The Situation of your Friends ſtands much as it did, and nothing has hap- 'pened of late in your Family to eaſe their Loſſes, or mend their Condition.'

He then gives a long Account of the Lord *North* and *Grey*'s being ſeiz'd at *Portſmouth*, and of his being to be brought to Town that Night; and concludes thus:

'I muſt now plainly tell you, that I am afraid your Couſin *N. Clifton* is in a 'very bad way, and a Perſon (whom he lately employ'd to manage ſome things 'for him, particularly to compound ſome *S. Sea* Bargains) has not been true to 'him; for his Creditors have actually put him in Jayl, and except you can con- 'trive to ſend him ſome Relief from what *Effects he put into your* Miſſiſippi (for 'I don't find he has any other Proſpect) his Confinement will prove fatal to 'him. You know his Worth, and for Heaven's ſake don't forſake him.'

This Letter being mention'd to be writ on the Day Lord *North* and *Grey* was brought up in Cuſtody, your Committee cannot but be led to conjecture, that by *N. Clifton* is meant the ſaid Lord, and that the Perſon ſaid to be employ'd by him, and ſuſpected of being falſe to him, is either *Lynch* or *Layer*; and if this Conjecture be admitted, it is not improbable that by *N. Crone*, in the former Letter, may be meant the ſaid Lord *North*.

On the 20th *October*, *Glaſcock* * writes to *Kelly*, 'That *D. Gainer*, (who in * E. 76. 'another part of the Letter is call'd *D. Gregory*, and is probably *Dillon*) thinks 'very ſeriouſly of the Commiſſions with which *Kelly* had charg'd him for his 'Friends, and does not refuſe to employ his whole Credit in that Affair; but 'that one ſingle Article had conſum'd the Bill of Exchange, which *N. Cleaton* 'ſent, and that there is not any other come that *Dillon* knows of.'

Here *N. Cleaton* means evidently the ſame as *N. Clifton* in *Kelly*'s Letter, and it appears he had ſent a Bill of Exchange to *France*, which was all conſum'd in one ſingle Article of Expence. In former Letters notice was taken of a Bill of Exchange ſent over by *Repney*, and of 20000 *l.* raiſed by *N.*

In the ſame Letter, *Glaſcock* takes notice of ſome *Goods* ſent by *Contade* and *Lunelle* for *Kelly*'s Uſe, which he deſires *Kelly* to ſend for, and to acknowledge the Receipt of them carefully.

It appears to your Committee, that theſe *Goods* were the Pretender's Declarations, which * came incloſed that Poſt, or the next, under blank Covers to *E. 23, 24 *Contade* and *Lunelle* at *Slaughter*'s Coffee-houſe, agreeable to the *Memorandum* in *Kelly*'s Pocket-Book.

In another part of the foregoing Letter, it is ſaid, that Mr. *G. Sampſon* has ſent over his *Project of Accommodation*, and waits the Event of it, which it is probable relates to the ſame Declaration.

Kelly

Kelly being examin'd by the Committee in relation to the Names in his
* E. 17. * Pocket-Book, ſaid, 'They were Names of Perſons, with whom he had 'tranſacted Stock-Affairs in *France* ſeveral Years ago. He own'd he had ſeen 'Letters at *Slaughter*'s and *Sturgis*'s Coffee-houſe directed by ſome of thoſe 'Names, but that it might eaſily happen, that there might be Perſons in *Eng-* 'land of the ſame Names with others in *France*; and that it was his Misfortune 'Letters ſhould come directed by thoſe Names. He inſiſted, that his Pocket- 'Book, tho' taken upon him, was an old one, that had lain by neglected theſe 'three Years.' Yet your Committee obſerve, the *Memorandums* in it were of a late Date, and contain'd a particular Account of the Time of his Journeys to and from *France*, and of the Days on which he and *Dennis Kelly*, and the Biſhop of *Rocheſter*, were taken into Cuſtody.

The Houſe will obſerve, that this long and particular Account of *George Kelly* is extracted out of ſuch Papers and Informations, as were in the hands of the Government relating to him, ſupported by ſuch Explications as ſeem to the Committee naturally to ariſe from comparing the ſeveral Parts of them together; but that he himſelf upon his Examination refus'd to make the leaſt Diſcovery that might give Light to any part of this treaſonable Correſpondence, tho' he plainly intimated he had it in his power to do it. And if in ſome Particulars, the Committee ſhould have fallen ſhort of the true and genuine Explanation of the Names, or other Facts, which may eaſily have happen'd in unfolding ſuch Variety of Matter, ſo induſtriouſly wrapt up in the utmoſt Obſcurity; yet they conceive it will not leſſen the Credit of thoſe Facts in general relating to him, which are ſupported by unqueſtionable Evidence, notwithſtanding his denying of them, and prevaricating ſo groſly with the Committee.

Your Committee will now proceed to lay before you ſuch Particulars, as they have collected from the Papers referr'd to them, relating to *Dennis Kelly* Eſq; who appears to them, from ſeveral Paſſages in the intercepted Letters, to have acted in Concert with the other *Kelly*, and behaved himſelf with the ſame Ob-
* F. 33. ſtinacy on his * Examination before them.

Your Committee ſee Reaſon to believe, that the ſeveral fictitious Names of *Kirton*, *Killegrew*, *Sandford*, *St. George*, and *Hubberts*, are made uſe of in the intercepted Letters to expreſs one and the ſame Perſon; and as this Perſon is frequently ſpoken of as living at the *Cockpit*, as being himſelf ill of a Fever and Ague part of laſt Summer, as having a Daughter, who was troubled with Returns of ſpitting Blood at particular Times there mention'd, and as being to ſet out with his Family for *France* by *Dieppe*, the latter end of *July*; theſe ſe-
* F. 2--8. veral Circumſtances being confirm'd to your Committee by the written * Examinations of Mr. *Dennis Kelly*'s Servants to have been true of him, and being in the Opinion of the Committee applicable to no one elſe, they ſee Reaſon to conclude, that what is affirm'd in the intercepted Correſpondence of the Perſon deſign'd by the Names above-mention'd, is affirm'd of him.

* F. 30 Your Committeee have likewiſe been * inform'd, that Enquiry having been made at the *Britiſh* Coffee-houſe, who took up Letters directed thither by the Name of *Sandford*, it was found that one Mr. *Kelly*, who frequented that Houſe, took them up. And a Letter from *France* ſo directed, having been co-
† F. 29. pied at the Poſt-Office, and then deliver'd out, the † Original of the ſaid Letter, ſign'd *M. Digby*, was found in *Dennis Kelly*' Pocket, when he was taken
‖ F. 29. up, as appears by the ‖ Affidavit of the Meſſenger, who ſeiz'd him.

In this Letter *Digby* ſends his Service to his Couſin *Ireton*, which has been ſhewn above to be one of the Names belonging to *George Kelly*; and alſo mentions *Hore*, who has been already explain'd to be probably Sir *Harry Goring*.

Your Committee obſerve, that the ſaid Letter was writ in the ſame Hand,
* F. 14. with another * ſign'd *J. Gerrard*, which was likewiſe found among *Dennis Kelly*'s Papers, and has been obſerved above to be probably the Name made uſe of by Sir *John D' Obryan*, whom *George Kelly* declared to be Secretary to *Dillon*.

They farther obſerve, that both theſe Letters, ſign'd *Gerrard* and *Digby*, were
* F. 15. in the ſame Hand with * others found in his Cuſtody relating to *Dillon*'s private

Affairs

Affairs, which confirms *Digby* to be *Dillon*, and *Gerrard* to be one, whose Hand *Dillon* makes use of for his Dispatches.

Another * Fragment of a Letter was found among his Papers, mentioning the Names of *Ireton* and *Hore*, which is in the same hand with the Letters to *Plunket*, signed *Dixwell* and *Howell*, and is therefore probably the writing of *Christopher Glascock*, *George Kelly*'s Correspondent. * F. 18.

Some other † Papers were also found in his Custody, mentioning others of the fictitious Names used in *George Kelly*'s Letters, as also a long || List of Names, with fictitious Names over against them, and a || Cypher of Figures, which appear to be *George Kelly*'s Hand-writing, and are sworn, by the Clerks of the Post-Office, to be the same Hand in which the Letters signed *Johnson*, *Hatfield*, &c. were writ. It has already been observed, that this Cypher of Figures is found to be a Supplement to the Cypher in which the Letters of the late Duke of *Ormonde*, and the Bishop of *Rochester* were writ; and that the said Cypher last mentioned is made use of in * one of the intercepted Letters from *Dillon* to *Dennis Kelly*. † F. 13. || F. 11. a. * F. 19.

There was also found, among his Papers, an exact † List of the quartering of his Majesty's Forces a little before the time of the Elections, and a || Scheme for erecting By-Boats between *London* and *Boulogne*, which seems referred to in the * Letters between *George Kelly* and *Gordon* of *Boulogne*. † F. 9. || F. 10. * E. 26. 4

There was also taken among his Papers a † Fragment of a very treasonable Letter, signed *F. M.* which your Committee conjecture was from one *Francis Macnamara*, a Person concerned in the former Rebellion, there being || another Letter among his Papers, with the Name at length, in the same hand. † F. 16. || F. 17.

Your Committee have laid together these several Circumstances, that it may appear *Dennis Kelly* was concerned in the treasonable Correspondence, which is confirmed by * Mr. *Crawfurd*'s Letter from *Paris*, $\frac{17}{27}$ of *May*, in which he says, 'There is one Captain *Kelly*, who frequents the *Cocoa-Tree* and *Will*'s 'Coffee-house, who is much in the confidence of *Dillon* and Lord *Lansdown*, 'he was here some Months ago, and is at present very active in *England*.' * A. 10.

Your Committee find, that he was abroad for several Months the latter end of the Year 1721, and that some of the Letters, sent to him by fictitious Names from *France*, were directed to *Will*'s Coffee-house and the *Cocoa-Tree*.

The Matters which they find him principally concerned in by the intercepted Letters, are, the * Remittance of the Bill of Exchange sent over from the Person called *Repney*, the Receipt of which is acknowledged in several Letters to him, his being present at a † Consultation with the Persons called *Rep. Ho.* and *Den.* and his being to carry over to *France* their final Answer, together with a new || Cypher, List of Directions, and other verbal Instructions, from *George Kelly*, for *Dillon*, *Glascock*, and *Talbot*. * F. 19, 21. † E. 59. || E. 59.

As *George Kelly*'s Correspondence was closely connected with that of the Bishop of *Rochester*, *Thomas Carte*, and *Dennis Kelly*, and as he appears to have been privy to *Plunket*'s; so your Committee see reason to believe, that he was not a Stranger to that of *Sample*, who appears to be mentioned in a * Letter from *Gerrard* to *Kelly*. * E. 53.

Your Committee find, that *John Sample*, being examined before the Secretaries of State, and two of your Committee †, owned, that *Francis*, Son of the Lord *Sempill*, commonly so called, had been in *England* that Summer, and returned to *France* about three Weeks before his Examination, which was taken on the 4th of *August* last. † G. 1.

That during his Stay in *England*, he (*John Sample*) was twice in company with him, and that two Letters found in his Trunk were received by him from the said *Francis Sempill* before his coming to *England*.

In the * first of these Letters, dated *June* $\frac{2}{13}$. 1722. *Fr. Sempill* tells him, 'That they are daily confirmed Mrs. *Hews*'s Distemper is but imaginary or 'counterfeit.' By Mrs. *Hews*, he said, was meant the King, and by his *Distemper* the late Disturbances. * G. 2. a.

Fr. Sempill then tells him, 'That this has put a Stop to Mr. *Standwell*'s Pro-'ceedings (*Standwell* he owned to mean the Pretender) but that this cannot

'disconcert *Standwell*'s Measures, nor even delay any thing *above a few Weeks.*

'That perhaps he may soon produce himself to their Cost, but it is not 'yet full time to give him (*Sample*) hopes of that kind. He adds, that they 'have not yet heard from Mr. *Houlder*,' whom *Sample* explained to be the late Duke of *Ormonde*.

Your Committee observe, That this agrees with the Accounts given in the former Parts of their Report, of the Attempts that were to have been made in *England* about the beginning of *May*, which were prevented, tho not entirely discontinued, by the Discoveries made here, and by the Encampment.

Sample being shewn the Copies of several Letters taken at the Post-Office, directed to Mr. *Sempill* at *Paris*, and enclosing others, owned, as appears by
*G. 1. his * Examination, the writing of them all, and gave Explications of the Names
†G. 6. made use of in them. † One of these Letters is to *Standwell*, whom he owned
‖G. 9. to mean the Pretender, and ‖ another is mentioned to be for *Glascow*'s Master, which is probably General *Dillon*. He likewise owned his having writ to the late Duke of *Ormonde*, and to *Kennedy* his Secretary; and while he was in Custody of the Messenger, he begun to put down in writing a Confession of his
*G. 3. Crimes *, which was found in his Room after his Escape. But tho' some of his Letters appeared dictated to him by other Persons, your Committee do not find he would discover who those Persons were.

Your Committee will next proceed to lay before you the Substance of the several Papers and Examinations referr'd to them, relating to Mrs. *Spelman*, alias *Yallop*, in doing which, they find themselves indispensably obliged to mention a Person of high Rank and Distinction, *Thomas* Duke of *Norfolk*, among others concern'd in the treasonable Correspondence convey'd thro' the hands of the said Mrs. *Spelman*.

It appears to your Committee, that Mrs. *Spelman* being examined on the 19th of *October*, concerning several Letters from abroad, directed to her by the
*H 3, 4. Name of Mr. or Mrs. *Burton*, has * declared upon Oath, that Mr. *George Jernegan*, (who, as your Committee are inform'd, is a Roman Catholick, and appears to have been long employ'd by the Pretender) 'being in *England* about six 'Months before her Examination, did, upon his going for *France*, leave Orders 'with the said Mrs. *Spelman* to send to the Duke of *Norfolk* such Letters as she 'should receive from him, *Jernegan*, directed to Mrs. *Jones*; and to Mr. *Harvey* 'of *Combe*, such as she should receive from him, directed to Mrs. *Williams*, in '*Newgate-street*, *Norwich*; and to Mr. *William Moor* (who lives, or did live in '*Brownlow-street*) such as she should receive from him, directed to Mr. *Frampton*: 'and that it was agreed between her and *Jernegan*, that he should direct to 'her by the Name of *Burton*, when he did not do it by her own Name.

'That she did accordingly send (as had been agreed between them) the 'Letters that came to her with the Directions abovemention'd, having first 'enclosed them under new Covers, which she herself directed; that she 'sent them by common Porters, who always brought her back an Account of 'their having delivered them, or of the Person's not being at home; that 'particularly one to the Duke of *Norfolk* was brought back again by the Porter, his Grace not being in Town, which Letter she kept till he came to 'Town, and then sent it to him. That she once received a Message from the 'Duke of *Norfolk* by Mr. *Edward Jernegan*, that his Grace could not answer 'a Letter she had convey'd to him from *George Jernegan*, because he, the 'Duke of *Norfolk*, had not the Key of the Cypher, it being in his Brother's 'hands; she likewise own'd her receiving several Cyphers and Keys of Cyphers from *George Jernegan*, which she burn'd between the time of her first 'and second Examination.'

Copies of these Cyphers having been taken at the Post-Office, it appears
*H. 37. that * one of them was mark'd, *A Key and Cypher, with Mr.* Farmer *and* Jerry;
†H. 35. and † another, *D*, *O*, and *J*; the first of which is probably a Cypher between the Pretender and *Jernegan*, and the latter between him and the late Duke of *Ormonde*.

It

It farther appears to your Committee, that *Edward Jernegan* being examin'd in relation to the Meſſage from the Duke of *Norfolk* abovemention'd, has || depoſed upon Oath, 'That about a Fortnight before the Duke went to the 'Bath, being inform'd that his Grace had inquired for ſome of their Family, 'he, *Jernegan*, went to wait on him, and his Grace told him, that he had re-'ceived a Letter from *George Jernegan*, who was then abroad, but that he 'could not anſwer it, becauſe his Grace's Brother had the Key of the Cy-'pher, in which it was written; and that he, *Jernegan*, delivered this Meſſage 'to Mrs. *Spelman*.'

The firſt Letter directed to Mrs. *Jones*, (the Duke of *Norfolk*) of which a Copy was taken, is dated, *Cambray*, 12th *July*, 1722. and is partly in Cypher, but has been decypher'd in the manner following:

SIR,

'VArious Conſiderations, which obliged me to ſubmit, deprived me till 'now the Honour of Writing to you; therefore I flatter myſelf, you 'incline to favour me with opinion, that my Zeal and Attention are above fal-'ling into any Negligence, where your Sollicitude or private Satisfaction is 'concern'd. You have been in ſome manner a Witneſs of the late Turn in 'Affairs, and undoubtedly know ſo much of them, that I fear it will prove 'ſuperfluous to trouble you with the Particulars which I have: After ſeve-'ral Meetings with ſome of our Friends at *Paris*, ... was of opinion, 'that the whole ſhould be communicated to the Regent; which being agreed 'to, that *Lord* was deputed to wait on him: they met and parted in appear-'ance the beſt Friends in the World, notwithſtanding, immediately by the 'Regent's Orders the Secret was diſcovered to King *George*. How is it 'poſſible to arm one's ſelf with ſufficient Prudence againſt ſuch a Conduct? 'Theſe being our private Concerns, I leave 'em, to divert you with the pub-'lick News: The Ouverture of the Congreſs ſeems now in the way to be de-'ferred to the K. of *Fr.* Majority, who, ſince his Removal to *Verſailles*, is in a 'manner ſolely in the hands of the Regent. His Coronation remains ſtill 'fix'd to the 15th of *October*; ſo, in all appearance, this Year produces no Diſtur-'bance to the preſent Peace of *Europe*. The Emperor grows daily more 'powerful in *Italy*, by the Pope's falling into that Intereſt; he has lately 'ſeiz'd the Fortreſs of *Maſſa* in *Florence*, and promiſes the Inveſtiture thereof, 'with that of *Parma*, to the Prince of *Baviere*, upon his Marriage with the 'Princeſs *Joſephina*. *Spain* will be under great Difficulties to find means to 'ſupport their Claim to theſe Provinces, eſpecially at a time that *France* ſeems 'negligent of every thing which concerns them. There is no appearance 'likewiſe that the Affairs in the North produce any thing material this Sea-'ſon. The pacifick Temper of the K. of *Pruſſia* ſecures every thing on 'that ſide, and has probably prevented the Diſturbance threaten'd in thoſe 'Parts. Thus at preſent are the Affairs of *Europe*.

'I did not fail to repeat my uſual Solliſitations in favour of your Brother, 'and to add what in Juſtice I thought you merited: this I did upon the firſt 'occaſion, after my coming over; to which, from the *King*, I have this An-'ſwer:

June the 15th.

"Nobody has a better Opinion than I have of the great Perſon you men-"tion, nor does his Character more Juſtice: I ſhall be always deſirous to do "what is in my power to convince him of my Regard for his Brother, who "now is in the Country with me; but I fear it will not be time to move in "the particular you mention of ſome Years yet, which will be the Caſe of "all others who pretend to the ſame Right as I do.

'Thus far was his. There is a Pleaſure to ſee with what generous Virtue 'he repays all who conſider his Misfortunes.

'I preſume to mention one thing more, being moved to it out of a pure 'Conſideration to the Credit it will give to your Name. Doctor *Witham* finds

'him-

' himſelf under the neceſſity of building the old Houſe, being ready to fall,
' and next Spring they begin, but upon ſo ſmall a Fund as will never finiſh the
' Work, as it ought to be; the Conſequence of which muſt neceſſarily oblige
' them to beg the Aſſiſtance of their Friends. I ſhould be ſorry upon this
' Occaſion, that any other Perſon ſhould diſtinguiſh himſelf ſo by a Donation,
' as to merit his Arms to be placed in the Front, where I could wiſh to ſee
' your own. I have not ſpoke one word of this to any Perſon in the Houſe,
' thinking it would look more generous in you; if diſpoſed to take the Credit
' in laying the firſt Stone, to move and offer it yourſelf. As to other Matters, if
' I can be ſerviceable in theſe Parts, either in your Particular, or to the Intereſt
' of the Party, you know me faithfully devoted to both. I have obtain'd leave
' to return by the end of Summer, finding it inconvenient to my private Situ-
' ation to remain longer abroad: I hope then to preſent you with freſh Proofs
' with what Zeal and Reſpect I've the Honour to be,

Sir, your moſt Obedient and
moſt Humble Servant.

' Be pleaſed to addreſs to me,
' à Monſieur *Hooker* under Cover à Monſieur *Pigault*
' Banquier à *Calais*.

Your Committee obſerve from this Letter, that *Jernegan* ſuppoſes the Duke of *Norfolk* already acquainted with a Deſign, on which Application had been made to the Regent, and with the Cauſes of its Miſcarriage; that however, in order to ſhew his Zeal and Attention in any thing, where he thought the Duke's Sollicitude concern'd, he ſends him an Account of what had happen'd to their common Friends at *Paris*, and of the Secret's being communicated to King *George* by the Regent's order; and then laments the Impoſſibility of arming themſelves with ſufficient Prudence againſt ſuch a Conduct, which, ſuppoſing it to have been ſuch as they repreſent, yet could not poſſibly have appear'd blameable to any but the Enemies of our preſent Happy Eſtabliſhment.

He then ſhews from the Situation of Affairs in *Europe*, there is but little Proſpect of any Rupture, which may be favourable or advantageous to their Deſigns.

He afterwards acquaints the Duke, that he had *repeated* his Sollicitations *to the Pretender* in favour of his Grace's *Brother*, and had alſo added what *in juſtice* he thought *His Grace himſelf merited*; to which he received an Anſwer from the Pretender (whom he ſtiles *the King*) acknowledging his *great Opinion of the Duke*, and the *Juſtice he does his Character*, and his Readineſs to convince His Grace of *his Regard* by any Kindneſs he can ſhew his Brother.

And the Inference, which *Jernegan* makes from the Regard expreſs'd towards the Duke in this Letter of the Pretender's, is, That there is a Pleaſure to ſee with what generous Virtue he (the Pretender) *repays* all thoſe, *who conſider his Misfortunes*.

He concludes with telling the Duke, that if he can be ſerviceable in thoſe Parts, either in his Grace's own Particular, or to the *Intereſt of the Party*, his Grace knows him faithfully devoted to *both*.

On the $\frac{2}{12}$ of *Auguſt*, *Jernegan* writes a ſecond Letter to the Duke, as follows.

SIR,

' THE Viciſſitude in our Affairs being a perpetual ebbing and flowing,
' 'tis extremely difficult to aſſure any thing with certainty: In my laſt of
' the 12th I mention'd how things had happen'd; and altho' the Fact was true,
' yet the Conſequence did not anſwer what we apprehended: It was a politick
' Neceſſity, which urged and demanded that Conduct, and it appears now to
' have ſucceeded ſo well, that every Hand is at work, as before, to draw
' things to a right Concluſion; briefs, we are flatter'd that the Regent is

' cordially

'cordially in our Intereſt, and diſpoſes every thing to undertake the Work, 'which according to ſome Accounts will be put in execution within two 'Months. Thoſe, who are ſerious and make due Reflection on theſe Mat-'ters, know how far they may be uſeful to the Cauſe, and with timely and 'prudent Precautions may diſpoſe their Friends to act a lively part; whilſt 'they themſelves keep retired, 'till the Succeſs one way or the other deter-'mines what is neceſſary to be done.

'I have opportunity, by being in theſe Parts, of picking up ſeveral good 'Officers, and with a little trouble as many as would compleat an entire 'Regiment, into which any Gentleman might enter himſelf, and do his Duty 'with Honour. This is what I thought fit to propoſe on this occaſion, and 'ſhould be glad to know, if ſolely upon your own Bottom this may be 'thought on. I ſhall take all neceſſary Precaution, and ſhall firſt know cer-'tainly what there is to depend upon. Your Opinion on theſe Matters, with 'the aſſiſtance of your Advice, will lay a moſt ſenſible Obligation on him, 'who entirely devotes himſelf,

Sir, Your moſt Obedient and
moſt Humble Servant.

'Let the Conveyer of theſe furniſh you with my immediate Addreſs.'

Your Committee obſerve, that in this Letter, *Jernegan* does, with an Air of great Satisfaction, try to leſſen the *Apprehenſions* and Diſcouragements, which he ſuppoſed his former Account of the Regent's having betray'd the Secret might have rais'd in his Grace, and ſays that every Hand is now *at work as before* to draw things to a *right Concluſion*, without explaining what that *former Work* or the *right Concluſion* hoped for is; which Particulars, it appears, he thought ſo well known to the Duke, as not to need the leaſt Explanation.

Then after telling his Grace, *We* are flatter'd the Regent is cordially in *our* Intereſt, and is diſpoſing every thing to undertake *the Work* within two Months time, he intimates, that from this Hint one of his Grace's Serioufneſs and Reflection might be uſeful to the Cauſe, by diſpoſing *his Friends* (who may juſtly be underſtood to be the Roman Catholicks) to *act a lively part*, while he himſelf lies retired, waiting till the Event ſhould determine what part it was proper for him to take.

He then makes the Offer to his Grace of raiſing an entire Regiment of Officers in *Flanders*, into which *any Gentleman* might enter himſelf, and do his Duty with honour; and deſires to know, whether on his Grace's own Bottom ſuch a thing might be thought of.

This treaſonable Offer, from an humble Servant of his Grace's, ſhews that *Jernegan* was at leaſt perſuaded it would not be ill received, which could only proceed from a thorough Aſſurance of the Duke's Inclinations to the Preten-der's Cauſe, and of his Intentions to ſupport it with Men and Money, when-ever a Probability of Succeſs ſhould make it ſafe and proper for him to eſpouſe it openly.

Your Committee farther obſerve, that this Letter was writ about the ſame time, that *Plunket* was ſo buſy in preſſing *Dillon* to ſollicite the Regent's Aſſiſtance; and that the Term for putting the Deſign in execution, which is mention'd in *Jernegan*'s Letter to be within two Months from the beginning of *Auguſt*, has an evident relation to the third Period pitch'd upon by the Conſpi-rators, which, as has been obſerved before, was the breaking up of the Camp. And it appears to your Committee, by ſeveral concurrent * Advices from *France*, *Spain*, and *Italy*, during the Months of *July* and *Auguſt*, that the De-ſign, which had been ſuſpended upon the firſt Diſcovery of the Plot, was again reſumed, and Preparations made for the Pretender's leaving *Italy* about the beginning of *September*; for which purpoſe the Ship *Revolution* (ſince taken) ſet ſail for *Italy* the latter end of *Auguſt*, having on board near two hundred Men and a great number of Officers. * A. 25. 29 35. 41 43.

Mention is made in *Jernegan*'s Letters to Mrs. *Spelman* of a great number of Letters written to and received from Mr. *Harvey* of *Combe*, by the name

* H. 19. of Mrs. *Williams*; and in * one of his Letters to Mr. *Harvey* he ſays, 'The 'Regent plays a Game a-part, and confides in none but *Britain*, and has ſa- 'crificed *Us* to make a firm Friend of King *George*. The late Diſappointment 'in *our* Affairs has given a ſurprizing Power to the Court of *France*; they 'ſilence all other Princes in regard to *Us*; none now dare look that way, or 'undertake the leaſt trifling Service in *our* favour.'

On the 20th of *July*, Mr. *Harvey* ſent an Anſwer to this Letter, the Ori-
* H. 4. ginal of which is ſtopp'd, and is * ſworn by Mr. *Spelman* to be his Hand-writing; but it contains ſuch an odd Heap of low and virulent Scandal, that the Committee do not think proper to trouble the Houſe with any Extract
† H. 16. of it, but have † annexed it entire to their Report.

Your Committee have already taken notice, that the Treaſonable Correſpondence, above ſet forth, was not confined to *England* only, but was carried on in *Scotland*, under the ſame Cant Expreſſions of *Wine*, *Trade*, *Goods*, &c. And it appears that the Pretender's Agents were equally buſy in diſpoſing Matters for an Inſurrection in that part of the Kingdom, at the ſame Periods of Time as were fix'd on in *England*.

* I. 2. They find that the Government has received * Information upon Oath from one *Lodoick Anderſon*, 'that on the 28th of *January* 1721, Brigadier *Mac-* 'kintoſh was ſeen by him (*Anderſon*) at the Houſe of Sir *John Mackenzie* of 'Coul, and told *Anderſon* that the Pretender deſign'd to have on the Crown of 'Scotland before Midſummer, and that he was to be aſſiſted from *France*, *Spain*, 'and *Muſcovy*; that General *Gordon* and Captain *Tullock* were to land at the 'Loach Elch with Arms for this purpoſe.'

* D. 1. That *Mackintoſh* was then in *Britain*, agrees with * *Pancier*'s Depoſition.

'*Anderſon* farther depoſed, that on the 15th of *February* he met the Lord 'George Murray at a place not far from the Earl of *Kintore*'s, who confirm'd to 'him what *Mackintoſh* had ſaid, with ſeveral other Particulars; that two days 'after he met Mr. *James Keith*, Brother to the Earl *Mariſhall*, who after 'having told him that there would be a Deſcent in favour of the Pretender, 'named to him ſeveral Perſons (ſpecified in his Depoſition) that were come 'over to get Matters in a readineſs.'

This, your Committee obſerves, anſwers to the firſt Period of Time for beginning an Inſurrection with the help of foreign Forces, during the Time of the Elections.

* I. 3. About the beginning of *May* a * Letter was intercepted, directed to Mr. *Pe-*
† I. 3. *ter Smyth* at *Boulogne*, and incloſing † another to *De Martin*: which Letters, as your Committee are informed, are in the Hand-writing of Mr. *Cochran*. Who is meant by *De Martin*, does not appear.

In this Letter *Cochran* ſays, 'Our *Cuſtomers*, on this Side the Water, are as 'fond of taking *our Goods*, as you are of ſending them; but I am afraid if they 'are not ſent ſoon, the Market will be foreſtalled, for our Enemies begin to 'be upon their Guard. He adds, that their Friends in *England* are willing to 'ſend Money to pay for them *per* Advance, and that they in *Scotland* are not 'backwards, but hope, in a few days, to remit as much Money as will be ſuf- 'ficient for their Country. He then deſires to know how ſoon they may ex- 'pect their Wines on this Side the Water, that they may put themſelves *in a* 'ſufficient Poſture for receiving them.'

Your Committee likewiſe find, that *Chriſtopher Glaſcock*, *Dillon*'s Agent, car-
* I. 6. ried on * Correſpondences to the ſame effect, with one who went by the Name
† I. 1. of *James Johnſton* at *Edinburgh*, and that † *George Kelly* correſponded with the
‖ E. 1. ſame *James Johnſton*, and owned to the Lords, at his ‖ Examination, his having ſent the ſaid *Johnſton* a Paper from *Glaſcock*, which he pretended related only to the *Miſſiſippi*.

Letters were likewiſe intercepted going from *Edinburgh*, directed to *Collins*
* P. 11. *a*. at Mr. *Waters*'s, Banker at *Paris*; which *Collins* appears, by *Kelly*'s * Cypher, to be *Colin Campbell* of *Glenderoule*.

In

In † one of these Letters to *Collins*, mention is made of a Person of great Consequence and Distinction, lately regained to the Pretender's Party, who insisted on a Sight of the *Contract of Copartnery*, which *Collins* is desired to send over by the first sure Hand; and *Collins*, in his || Answer, signed *R. Broun*, promises it shall be sent over. † I. 9. || I. 17.

Your Committee observe, that this Particular agrees with * *Fairfax*'s Deposition upon Oath, That *Layer* told him, The People of *England* were backward, but that those of *Scotland* had already entered into an Association. * B. 36.

In the same † Letter to *Collins*, it is said, That the Person of Consequence, who had insisted on a Sight of the *Contract of Copartnery*, desired an Order from Mr. *Malcom* for raising one or two Battalions, but was told those Orders might come time enough by the hands of those who happened to come first to open *the Commerce*; which shews of what nature *that Commerce* was. † I. 9.

In the same Letter Application is made to Mr. *Malcom* for a Patent for Knight Baronet; both which Circumstances confirm *Malcom* to be the Pretender.

Your Committee observe, that these Letters, and || some others, which appear to have been intercepted about the Month of *May*, and are annexed to this Report, fall in with the second Period of Time fixed by the Conspirators in *England*. || I.

And on the 18th of *August*, O. S. Mr. *Stanhope* * writes word from *Madrid*, that he had received Intelligence, that the *Scotch* had engaged to bring 22000 Men into the Field in ten Days time, in case the late Duke of *Ormonde* would come over with Arms to head them, and that they daily sent most pressing Messages to *Ormonde* on that Subject; which shews that the Design was reassumed a third time in *Scotland*, as it was in *England*. * A. 42.

Your Committee farther observe, that agreeably to what was promised in Mr. *Cochran*'s Letter of the 28th of *April*, † Mr. *William Erskine* did, on the 3d of *May*, remit Two Thousand Pounds Sterling to Mr. *Gerrard* (*Dillon*'s Secretary) at *Paris*, and owned his so doing on his Examination before the * Lord Justice Clerk, but refused to discover who *Gerrard* was, or from whom, and for whose Use the said Sum was remitted. † I. 7, 8. * I. 10.

When he was taken into Custody, a Letter was seized in his Pocket, which, as your Committee is || informed, is all in the late Lord *Marr*'s own Hand-writing, dated *Paris*, *February* the 9th, 1722. in the following words: || I. 10.

Paris, *February* 9. 1722.

'I Have, *William*, yours of the 7th, for which I am obliged to you, and 'take all you say, as I ought, from the good Heart from whence I know 'it comes, tho' at the same time you put a greater Value on your Friend than 'he deserves: But be that as it will, I am fully persuaded, as you may be, 'that he will never fail an Occasion for what you mean, nor neglect endeavouring to bring it about, where he sees it can be of Advantage to his 'Country; and his Friends and Countrymen may depend on it, when they 'see him engaged again, that the retrieving of it from the low Condition it 'is now in, and otherways ever like to be, is the chief Motive that induces 'him, and he hopes in that way he will not be without the Assistance of all 'who wish the same thing; and the more, that he will take all the care he 'can not to expose them for serving that of others, if at the same time he be 'not pretty sure of its doing effectual Service to their own, and putting it 'on a better foot than it has been these hundred years past. If he looked but 'to his own private Interest, he could perhaps find a way, which could conduce more to it: but he hopes, by his former Actions, it appears, that he 'never put that in competition with what he thought was the Interest of his 'Country, tho' in which he owns he was once mistaken, as many others may 'have been; but as he never scrupled owning his Fault, since he found it by 'Experience to be one, so he has ever since endeavoured to make amends, and 'will as long as he lives.

'Things

'Things are in ſuch a Situation at preſent over all *Europe*, that there appears little of any Opportunity of doing what is to be wiſh'd upon that account; but things of this kind are very uncertain, and an Opportunity may come, or be brought about, when leaſt expected; and you may believe it will not be neglected when it does; nor will any Endeavours be wanting to bring it to that paſs. Huſh! tho, muſt be the word, and Friends muſt not take amiſs their not being acquainted previouſly to the Execution, in which it is to be hoped they will not fail.

'You ſee I make no ſcruple in writing freely to you, but you know the Conſequence of this coming into wrong hands, and thoſe it is fit and of uſe to be told to, you know too: So I leave it to your own Diſcretion, of which you have given me many Proofs. I have been much out of uſe of writing to *H. S.* for ſome Years paſt, and I have not yet got a return of one I wrote him laſt Summer; but I ſhall write to him of what you mention in yours.

'As to *M*———*y*, I care not to ſay more about him, and were it not that I think it for the good of a certain Perſon and Cauſe, I ſhould not even wiſh to have all the truth told of him, ſince his being abroad. I cannot anſwer for what handles may be given him for his Juſtification; but let honeſt Men, who wiſh right, tell the truth, where they know it, and that it is neceſſary, and ſhame the Devil.

'I wiſh you a good Journey and good Luck with all my heart, and that we may ſoon have an Opportunity to meet merrily, and be of uſe to our Country. My Compliments to my Friends, and I hope we ſhall never have cauſe to be aſhamed of other.

'I ſhall long impatiently to hear from you after your getting to *London* and *Edinburgh*, and pray do not fail writing after your coming to both Places, and have ſeen People.

'Send me your Addreſs, and you may be ſure of hearing from me, when it can be of any uſe. Pleaſure it would be always to me, but that muſt yield ſometimes to Circumſtances.

'My Family ſalute you, and wiſh you all Happineſs, as I do, who am ſincerely and affectionately yours, *&c.* *Adieu.*

'I wiſh you may have ſomething agreeable to tell me of your Brother and Uncle, when you have ſeen them, and remember me kindly to your Father-in-law. Sure we muſt all wiſh the ſame way to our Country.

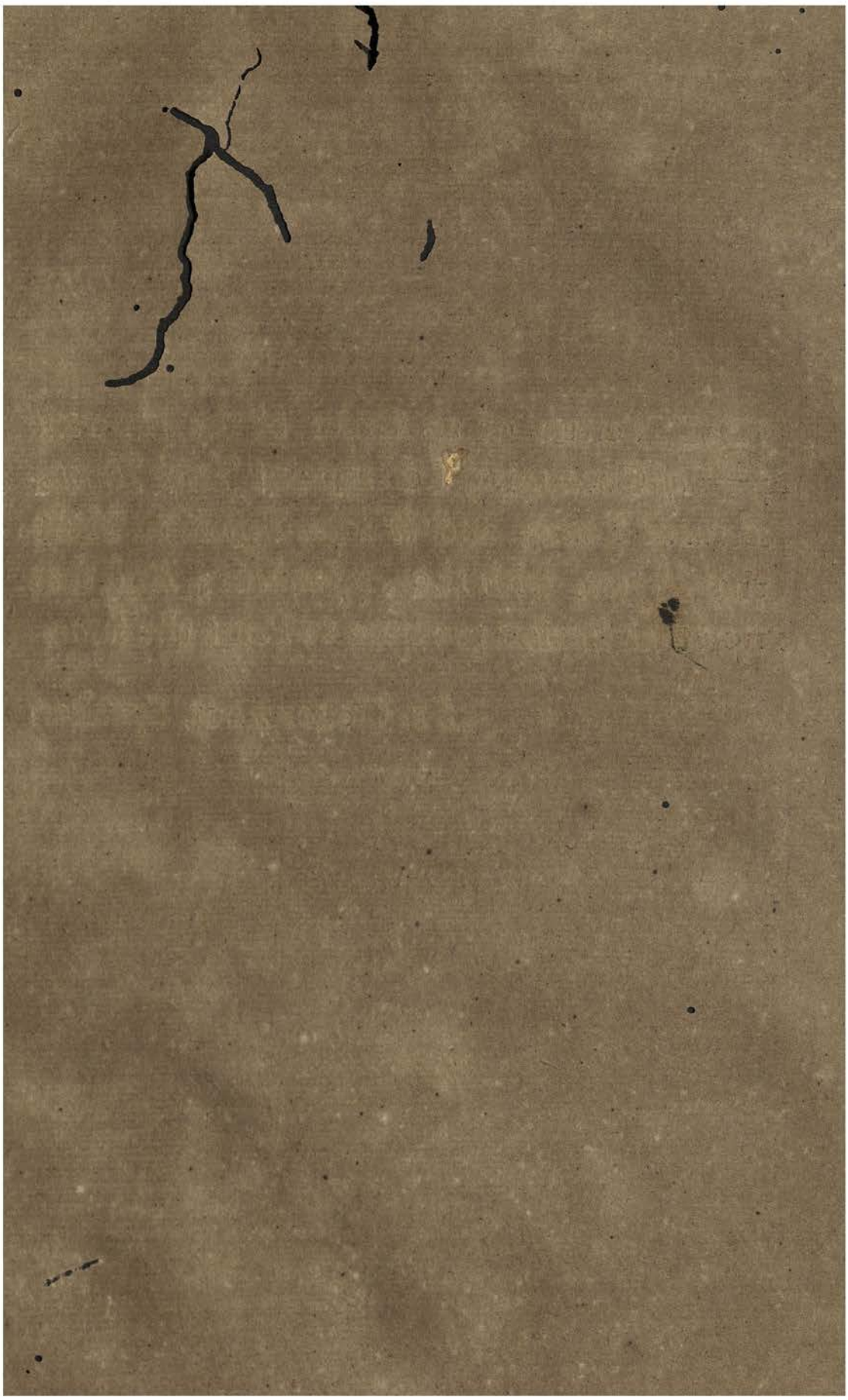
'What is become of our Couſin *Will*, who I hear is ſtill where you have been for ſome time?'

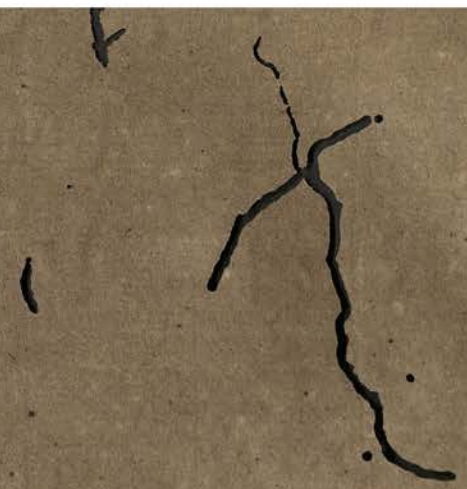
*K. 1—3. Your Committee likewiſe find evident Footſteps of this treaſonable Correſpondence * from *Ireland*; but having already ſhewn ſufficiently the Extenſiveneſs of the Conſpiracy, they forbear to tire the Houſe with any further Particulars.

Your Committee have now gone thro' the ſeveral Matters, that appear'd to them from the Examinations of the Perſons or Papers referr'd to them; and they are in hopes, that in reporting every Circumſtance, that ſeem'd material, they have ſtrictly comply'd with the Intentions of the Houſe in appointing them.

If the frequent Repetitions of the ſame Matter have ſwell'd the Report into too great a length, they are perſuaded the Houſe will excuſe it, ſince it was in all the Places where they have done it, neceſſary to explain the Paſſages related, or elſe to ſhew the Connection of the Treaſons, as well as the Co-operation of the Conſpirators in their wicked Deſign of Dethroning his moſt Sacred Majeſty, and Overturning our preſent Happy Eſtabliſhment in Church and State.

FINIS.





BY Vertue of an Order of the HOUSE *of* COMMONS, I do appoint *Jacob Tonſon*, *Bernard Lintot*, and *William Taylor* to Print this *Report*, with the *Appendixes*; And that no other Perſon preſume to Print the ſame.

SP. COMPTON, Speaker.

APPENDIXES

Referr'd to in the

REPORT

FROM THE

COMMITTEE

Appointed by Order of the

Houſe of Commons

TO EXAMINE

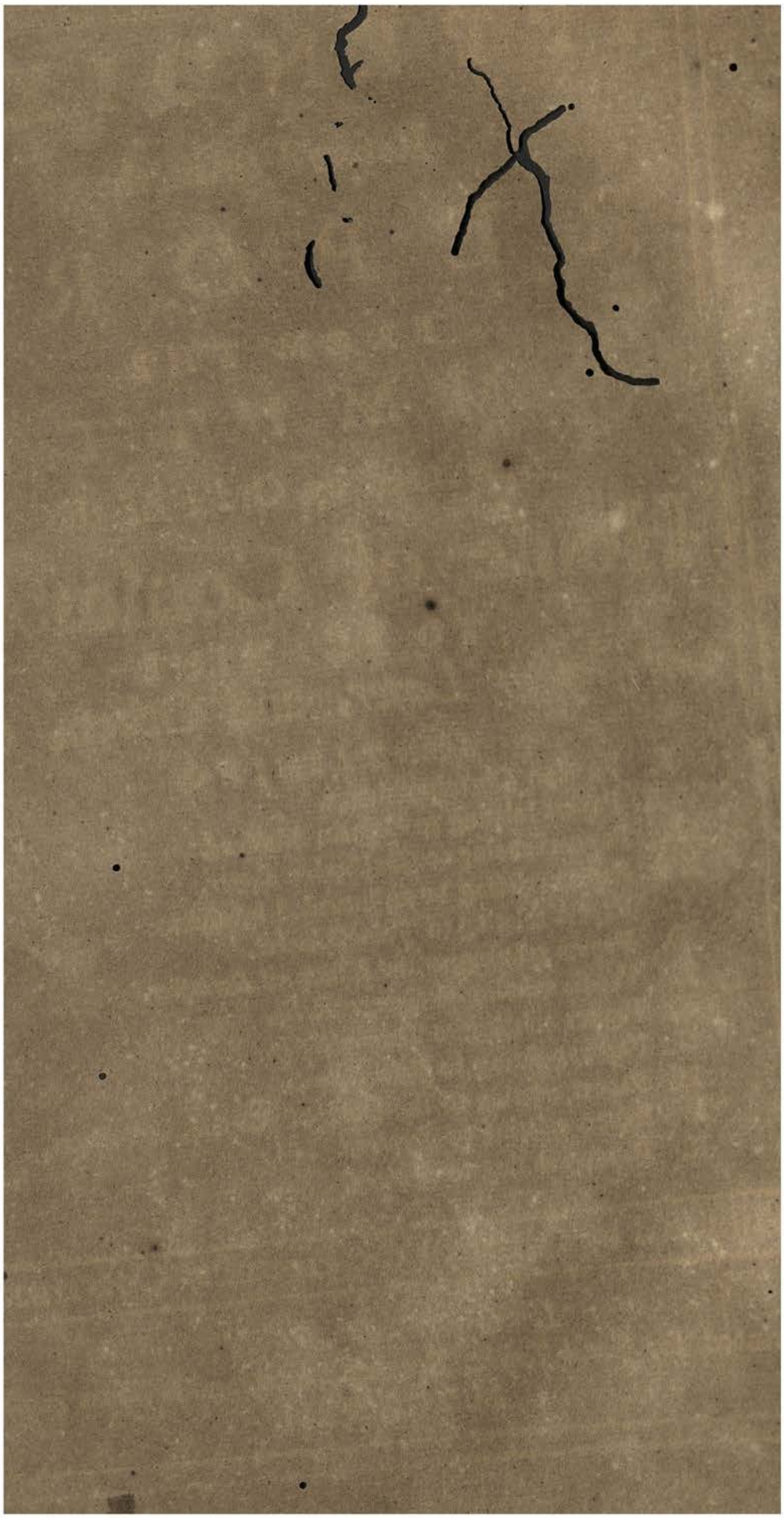
Chriſtopher Layer, and Others, *&c.*

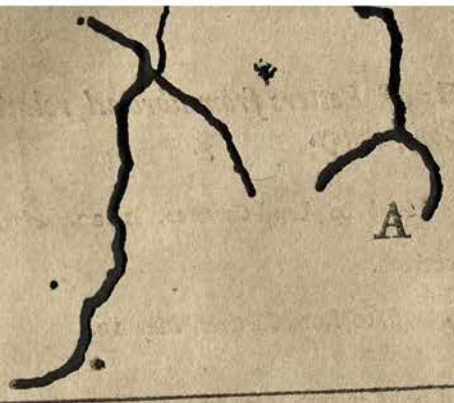
CONTAINING,

A. Foreign Correſpondence.
A A. Papers relating to Captain *Halſtead.*
B. Papers relating to *Chriſtopher Layer.*
B B. Papers relating to an intended Invaſion.
C. Papers relating to *John Plunket.*
D. Papers relating to the Biſhop of *Rocheſter.*
E. Papers relating to *George Kelly.*
F. Papers relating to *Dennis Kelly.*
G. Papers relating to *John Sample.*
H. Papers relating to the Duke of *Norfolk*, and others.
I. Papers relating to *Scotland.*
K. Papers relating to *Ireland.*

Publiſh'd by Order of the HOUSE *of* COMMONS

LONDON:
Printed for *Jacob Tonſon*, *Bernard Lintot*, and *William Taylor.*
MDCCXXII.





A

FOREIGN CORRESPONDENCE.

A List of Copies and Extracts of Letters from abroad, relating to the Conspiracy.

A.

1 EXtract of a Letter from Sir *Luke Schaub* to Lord *Carteret*, 1722. *April* 30. *N. S.* Page 3.
2 .... Encloſing the Advices he had received. Ibid.
3 Extract of a Letter from *Rome*, *May* 4. 4.
4 Extract of a Letter from Sir *Luke Schaub*, to Lord *Carteret*, *May* 10. Ibid.
5 Do. to Do. *May* 13. 5.
6 Do. to Do. *May* 20. Ibid.
7 Extract of Mr. *Crauford's* Letter to Lord *Carteret*, *May* 20. 6.
8 Extract of a Letter from *Rome*, *May* 23. 7.
9 Extract of Mr. *Crauford's* Letter to Lord *Carteret*, *May* 27. Ibid.
10 Do. to Do. *May* 30. 8.
11 Extract of a Letter from Sir *Luke Schaub*, to Lord *Carteret*, *June* 3. Ibid.
12 Extract of a Letter from *Rome*, *June* 6. 9.
13 Extract of Mr. *Schaub's* to Lord *Carteret*, *June* 7. Ibid.
14 Extract of Mr. *Crauford's* to Do. *June* 7. 10.
15 Extract of Col. *Stanhope's* Letter to Lord *Carteret*, *June* 8. Ibid.
16 ----- incloſing Col. *Stanhope's* Letter to M. *Grimaldo* and 11.
17 -----M. *Grimaldo's* Anſwer. 12.
18 Extract of a Letter from *Rome*, *June* 13. 14.
19 Extract of Sir *Luke Schaub's* Letter to Lord *Carteret*, *June* 13. Ibid.
20 Extract of Col. *Stanhope's* to Do. *June* 15. 15.
21 Extract of Mr. *Crauford's* to Do. *June* 24. Ibid.
22 Extract of a Letter from *Rome*, *June* 27. 16.
23 Do. *July* 4. Ibid.
24 Do. *July* 11. 17.
25 Do. *July* 11. 18.
26 Extract of Sir *Anthony Weſtcombe's* Letter to Lord *Carteret*, *July* 13. Ibid.
27 Extract of Do. to Do. *July* 13. 19.
28 Extract of Do. to Do. *July* 14. Ibid.
29 Extract of a Letter from *Rome*, *July* 18. 20.
30 Extract of Mr. *Crauford's* Letter to Lord *Carteret*, *July* 18 Ibid.
31 Extract from Do. to Do. *July* 25. 21.
32 Extract of a Letter from *Rome*, 25. 22.
33 Do. *Auguſt* 8. Ibid.
34 Copy of a Letter from Sir *Anthony Weſtcombe* to Lord *Carteret*. *Aug.* 10. 23.
35 Do. to Do. *Auguſt* 12. Ibid.
36 Do. to Do. *Auguſt* 14. 24.
37 Do. to Do *Auguſt* 15. Ibid.
38 Do. to Do. *Auguſt* 16. 25.
39 Do. to Do. *Auguſt* 16. Ibid.
40 Extract from Do. to Do. *Auguſt* 21. 26.
41 Extract of a Letter from the *Hague*, *Auguſt* 28. Ibid.
42 Extract of Col. *Stanhope's* Letter to the Lord *Carteret*, *Auguſt* 29. 27.
43 Extract of Sir *Anthony Weſtcombe's* Letter to Do. *Sept.* 7. Ibid.
44 Extract of Capt. *Scot's* Letter to Mr. *Burchet*, *Nov.* 27. Ibid.
45 Letter from Capt. *Gardiner*, Maſter of the Revolution, to Lord *Carteret*, *Dec.* 8. 29.

WE certify, that the Papers herewith incloſed are true Copies and Extracts, which have been peruſed by Us, of the reſpective Letters, from which they are copied or extracted, mentioned in the ſeveral Indorſements of the ſaid Papers.

Townſhend.
Carteret.

Whitehall 26 Jan. 172$\frac{3}{4}$

A. 1.

Extrait d'une Lettre du Chevalier Schaub *au Lord* Carteret.

My Lord,

..... vient de me communiquer l'avis cy-joint, qu'il croit assés important pour meriter de vous être sur le champ envoyé par un Exprés.

Paris 30. *Avril* 1722. *N. S.*

A. 1.

Translation of an Extract of a Letter from Sir Luke Schaub *to the Lord* Carteret.

My Lord,

..... has just now imparted to me the inclosed Advice, which he believes to be of Importance enough to be worth sending you immediately by an Expres.

Paris 30*th April* 1722. *N. S.*

A. 2.

Dans la Lettere du Chevalier Schaub, *au Lord* Carteret.

UN Officier qu'on ma dit tre très sensé, a ecrit à un de ses Amis à Paris, qu'enfin le moment est venu de faire un coup certain en Angleterre ; que la resolution & les mesures en sont prises à ne pouvoir pas douter de l'Evenement, & que l'Entrepriſe est si bien concertée & conduite par des personnes si sages & si capables, que si le secret est observé comme on se le propose, elle est infallible ; qu'on luy a fait l'honneur de le mettre de cette entrepriſe, & qu'il doit être rendu en Angleterre le 10 de *May*.

Cela s'accorde avec les instances reiteres qu'on a fait faire depuis quelque tems à Mr. le *Regent*, par plusieurs personnes de consideration, de fournir seulement 3000 Hommes, moyennant lesquels le Pretendant seroit surement retabli ; & dans le tems qu'on fait ces tentatives, on a remarque que beaucoup d'Officiers *Irlandois* sous pretexte d'aller a leurs Regiments, s'approchoient des Cotes.

On fera bien en *Angleterre* de prendre garde à ceux qui y passeront de *France* & des Païs-Bas.

A. 2.

Translation of a Paper inclosed in Sir Luke Schaub's *Letter to Lord* Carteret.

AN Officer, who, as I have been told, is a very sensible Man, has written to a Friend at *Paris*, that at length the moment is come for striking a secure Blow in *England* ; that the Resolutions and the Measures for it are taken in such manner, that one cannot doubt of its coming to pass, and the Enterprise is so well concerted and conducted by Persons of such Wisdom and Capacity, that if the Secret is kept, as is proposed, it cannot fail ; that the honour has been done him of engaging him in this Enterprise, and that he must actually be in *England* the 10th of *May*.

This is of a piece, with the repeated Instances, that for some time past, several persons of Consideration have been prevail'd upon to make to the Regent, that he would furnish only 3000 Men, with whose Assistance the Pretender shou'd certainly be restored ; and at the same time that they are making these Attempts, it has been observ'd, that many *Irish* Officers, under pretence of going to their Regiments, are drawing towards the Sea Coast.

It will be very proper, that in *England* they shoud observe, who goes thither from *France* and the *Netherlands*.

A. 2.

Extrait d'une Lettre de Rome.

HIER au Soir, comme je revenois de la Campagne, je trouvai le Secretaire de ..... qui m' attendoit chez moy pour me dire que ſon Maitre ſouhaitoit de me parler inceſſament ſur une Affaire de grande importance. Je me rendis ſans delai au Palais de ....., pour voir dequoy il eſtoit queſtion.

Il me dit qu'il ſe croioit obligé de m'avertir d'une découverte qu'il venoit de faire, à fin que j'en donnaſſe part à ſa Majeſté par un Expres; & il m'a dit qu'on devoit ajouter une entiere foy à cet avis, qui luy vient d'une main trop ſeure pour en douter. Il me dit que les Amis du Pretendant font des preparatifs à *Cadiz* & en tous les Ports d'Eſpagne, pour jetter un Corps de Troupes dans la *Grande Bretagne*, ou dans l'*Irlande*, quand le Roy aura paſſé la mer, ſe flattant de quelque Soulevement dans l'agitation preſente.

Que le Pretendant doit partir d'icy ſecrettement en trés peu de tems, pour ſe rendre à *Porto Longone*, d'ou il doit paſſer en quelque Port d'*Eſpagne*.

Jeudi paſſé le Pretendant eut une longue Audience du Pape, ſous pretexte de prendre congé de ſa Sainteté avant ſon depart pour ſa Villeggiature *d'Albano*. Il doit y aller en trois jours, d'ou il pourra partir avec moins d'eclat pour *Porto Longone*, que s'il partoit en droiture de *Rome*.

Rome, May 4. 1722. *N. S.*

*** We certify, that about the time that the foregoing Letter came to *England*, his Majeſty received the ſame Intelligence from a Foreign Miniſter reſiding at his Court.

Townſend.
Carteret.

A. 3.

A Tranſlation of an Extract of a Letter from Rome.

LAST Night, on my return from the Country, I found the Secretary of ..... at my Houſe, where he had waited for me, to acquaint me that his Maſter deſired to ſpeak with me immediately upon an Affair of great Importance. I went forthwith to the Palace of ..... to learn what was the Buſineſs. He told me, that he thought himſelf obliged to give me notice of a Diſcovery he had juſt made, that I might acquaint his Majeſty with it by an Expreſs; and he told me, that entire Credit was to be given to this Advice, which came to him from too ſure a Hand to be in the leaſt doubted. He ſaid, that the Pretender's Friends are making Preparations at *Cadiz*, and all the Ports of *Spain*, in order to throw a Body of Men into *Great Britain* or *Ireland*, when the King ſhall have gone beyond Sea, flattering themſelves with the hopes of ſome Inſurrection in the preſent Agitations. That the Pretender is to ſet out privately from hence in a very ſhort time, to go to *Port-Longone*, from whence he is to paſs to ſome Port of *Spain*.

On *Thurſday* the Pretender had a long Audience of the Pope, on a Pretext of taking leave of his Holineſs, before his departure to the *Villa* of *Albano*. He is to go thither in two or three Days, from whence he may with leſs notice proceed to *Porto Longone*, than if he went directly from *Rome*.

May 4. 1722. *N. S.*

A. 4.

Extrait d'une Lettre du Chevalier Schaub *au Lord* Carteret.

..... nous dit hier qu'il avoit appris de nouvelles particularités. Que les movemens des *Jacobites* continuent avec la même vivacite; qu'ils ſe croyent ſeurs de leur coup; qu'ils ne penſent plus avoir beſoin de ſecours Etrangers; qu'ils comptent ſur la plus grande partie des Troupes de ſa Majeſte. Que le Pretendant même doit ſe mettre en chemain; que tous les *Jacobites* en *France* & aux Païs-Bas amaſſent tant d'Argent qu'ils peuvent trouver; qu'ils ne demandent plus aucunes Troupes au Regent; qu'ils ſe bornent maintenant à exiger que *S. A. R.* acquieſce à leur ſucces, & ſe tienne neutre entre ſa Majeſte

&

& le Pretendant ; & que my Lord *Lanſdowne* devoit donner ou faire donner au Regent un memoire pour cet effet aujourdhuy ou demain. Que comme ils ſe recommandent reciproquement le Secret, dont, diſent ils, leur Salut depend, il n'a pas pû penetrer encore en quel Endroit ils ſe propoſent de frapper leur Coup ; mais que ce pourroit bien être a *Londres*. Que Mi-May eſt toujours leur terme ; qu'il ſe peut bien qu'ils ſe flattent trop legerement, comme à leur ordinaire ; mais comme des Officiers intelligens s'en mêlent, qu'on ne ſauroit prendre trop de precautions en *Angleterre*.

On m'a ajouté, que le cy-devant Duc d'*Ormonde* avoit a ſolicité la Permiſſion de paſſer par la *France*, ſous pretexte de vouloir aller en *Italie* ; mais que *S. A. R.* l'a abſolument refuſée, & a en même tems envoyé les ordres neceſſaires ſur les Frontiers d'*Eſpagne* pour qu'*Ormonde* ne puiſſe y paſſer, ni ſous ſon propre nom, ni deguiſé.

à Paris le 10 *May*, 1722.

A 4

Tranſlation of an Extract of a Letter from Sir Luke Schaub, *to Lord* Carteret.

. . . . . told us Yeſterday, that he had learn'd further Particulars, that the *Jacobites* continue as active as ever. That they believe themſelves ſure of their Point. That they think they have no further Occaſion for foreign Aſſiſtance. That they reckon upon the greateſt Part of his Majeſty's Troops. That the Pretender himſelf is ready to begin his Journey. That all the *Jacobites* in *France*, and in the Low-Countries, heap up all the Money they can procure. That they no more deſire any Troops from the Regent. That all they now inſiſt upon with his Royal Highneſs, is, That he would acquieſce in their Succeſs, and be Neuter between his Majeſty and the Pretender ; and that my Lord *Lanſdown* was to give or procure a Memorial to be given to the Regent to that effect, this Day or To-morrow. That as they recommended Secrecy to one another, upon which they ſay their Safety depends, he has not been able as yet to diſcover in what Place they deſign to ſtrike their Blow, but that it might probably be at *London*. That the middle of *May* is ſtill their appointed Time. That it is poſſible they flatter themſelves too vainly, as uſual ; but as ſome skilful Officers are engaged in this Enterprize, That there could not be too much caution taken in *England*.

He added, That the late Duke of *Ormond* has ſollicited to have Leave to paſs through *France*, under Pretence of his going to *Italy*, but that his Royal Highneſs had abſolutely refus'd it, and had ſent at the ſame time the neceſſary Orders to the Frontiers of *Spain*, to prevent *Ormond*'s paſſing either under his own name, or a borrow'd name.

dated *Paris*, $\frac{29\ April,}{10\ May,}$ 1722.

A 5

Extract of a Letter from Sir Luke Schaub, *to Lord* Carteret.

OUR Friend had Yeſterday freſh Advice of the *Jacobites* going on with their Plot. *Leſly* is looking out here for Lodgings for the late Duke of *Ormond*, and Alderman *Barber* paſs'd through here four Days ago, in great Hurry going to *Rome*, poſſibly to haſten thence the Pretender's Journey. *My Lord Lanſdown* has not as yet preſented his Memorial to the Regent.

Paris, *May* 13. 1722.

A 6

Sir Luke Schaub *to Lord* Carteret.

. . . . . a eû avis depuis deux Jours, que les *Jacobites*, ſe trouvant derangez par quelque Accident, ſe ſont vûs obligez de differer l'Execution de leur Projet. Il ne vouloit

loit pas que je vous le mandaſſe, juſqu'à ce qu'il en fût mieux éclairey. Mais ce même avis luy a été confirmé hier, avec cette Particularité, que les *Jacobites* ont réſolu d'aller plus lentement en beſogne, pour la rendre plus ſolide. Qu'ils vont prendre de nouveaux Arrangements avec le Prétendant, & avec le cy-devant Duc *d'Ormonde*. Que l'Alderman *Barber* porte au Prétendant des Lettres de Change de 50 m. Livres Sterl. & qu'un autre Homme en porte à *Ormonde* pour le mettre en état de faire des Préparatifs en *Italie* & en *Eſpagne*. De ſorte que ſelon toutes les Apparences le coup qu'ils méditent ne pourra pas le mettre en Execution, dans tous le Mois de Juin. ---- n'apprend pas qu'ils ayent fixé un nouveau Terme, depuis qu'ils ont abandonné celuy de Mi-May. Il dit qu'en combinant tout ce qui luy a été rapporté à demy-mot de leurs préſentes Machinations, il conjecture que c'eſt encore en Ecoſſe qu'ils voudront les faire éclater; & qu'ils éviteront d'y mêler d'abord des Gens trop-notez par les Rebellions précédentes, à fin que ceux-cy ſe tenant en repos, vous vous doutiez d'autant moins d'aucun Deſſein.

Paris 20th May, 1722. *N. S.*

A. 6.

Tranſlation of an Extract of a Letter, from Sir Luke Schaub, *to Lord* Carteret.

. . . . . has had Advice theſe two Days, that the *Jacobites* having found themſelves diſappointed by ſome Accident, have been oblig'd to put off the Execution of their Project. He would not then have me ſend it to you, till he had got more Lights into it. But the ſame Advice was confirm'd to him Yeſterday, with this Particular, That the *Jacobites* have reſolv'd to go more ſlowly to work, in order to render it more ſolid. That they are going to lay new Schemes with the Pretender and the late Duke of *Ormond*. That Alderman *Barber* carries Bills of Exchange to the Pretender for Fifty Thouſand Pounds Sterling, and that another man carries ſome to *Ormond*, to enable him to make Preparations in *Italy* and in *Spain*. So that according to all appearances, the Stroke intended by them, cannot be put in Execution in all the month of *June*. ..... does not learn that they have fix'd any new Term, ſince they gave over that of the Middle of *May*. He ſays, that by putting together all that has been reported to him by Bits, concerning their preſent Machinations, he conjectures, that they will break out with them in *Scotland* again, and that they will avoid engaging in them, at firſt, ſuch People as are too remarkable upon Account of former Rebellions, in order that theſe remaining quiet, you may the leſs miſtruſt any Deſign.

Paris, 20*th May*, 1722. *N. S.*

A. 7.

Extrait d'une Lettre de Mr. Crauford *au Lord* Carteret.

LES Particularités que j'ay pû apprendre de bonne Part, ſont, que les *Jacobites* icy s'attendent à une Revolte en Angleterre, qui doit ſe faire bientôt par les Chefs de leur Parti qui y ſont. Mon Intelligence ne fixe pas un Terme pour cet Evenement. Ils ſe flattent ſeulement, que cela pourra éclater immediatement apres le Depart du Roy pour Hanover, & que cette Revolte ſera ſoutenuë par quelques Officiers & Soldats *Irlandois*, qu'ils pretendent avoir ramaſſés en *Eſpagne*, & qui ſont prêts à *Cadiz*, outre ceux qui ſe gliſſeront en Angleterre de ce Païs cy.

Paris, 20*th May*, 1722.

A. 7.

Tranſlation of an Extract of a Letter from Mr. Crawford, *to Lord* Carteret.

THE Particulars that I have been able to learn from good Hands are, that the *Jacobites* here expect a Riſing in *England*, which is to be brought about very ſoon by the Heads of their Party there; my Intelligence does not fix a Term for that Event. They only flatter themſelves, that this may break out immediately after the King's departure for *Hanover*, and that this Riſing will be ſupported by the *Iriſh* Officers and Soldiers which they pretend to have gathered in *Spain*, and are ready at *Cadiz*, beſides ſuch as will ſlip into *England* from this Country.

Dated Paris May 20. 1722.

A. 8.

Extrait d'une Lettre de Rome.

. . . . . croit qu'on va mettre en execution le grand Projet concerté dans le Conclave, pour mettre le Prétendant ſur le Throne de la *Grande Bretagne*.

Du May 23. 1722.

A. 8.

Tranſlation of an Extract of a Letter from Rome.

. . . . . believes that the great Project concerted in the Conclave to place the Pretender upon the Throne of *Great Britain*, is going to be put in Execution.

May 23. 1722.

A. 9.

Extrait d'une Lettre de Paris *de Mr.* Crauford *en date du* May 27. 1722. *N. S. au Lord* Carteret.

UNE perſonne qui s'emploie parmi les Jacobites, à me fournir des intelligences, me vint dire il y a trois jours, qu'il avoit été ces jours paſſés en pluſieurs parties avec eux, qu'il avoit vû parmi les Principaux une diſpoſition à partir d'icy bientôt, & qu'ils ſe donnoient rendezvous à *Bologne* chez *Gordon* le Marchand, autrefois Banquier du Prétendant, le quel *Gordon* aura un petit Vaiſſeau tout prêt pour les tranſporter en Angleterre, ou en Ecoſſe. Toutes les particularités qu'il m'a pû dire, eſtoient, que *Seaforth* devoit partir d'icy en trois jours, & que *Campbel de Glenderoul* devoit être chargé de leurs Dépeches, en cas qu'ils trouvaſſent à propos d'expédier un Courier.

A. 9.

Tranſlation of a Letter from Mr. Crawford, *to Lord* Carteret, *dated* Paris, May 27. 1722. *N. S.*

A Perſon who is employ'd amongſt the Jacobites to ſupply me with Intelligence, came three Days ago to tell me, that he had lately been in ſeveral Parties with them; that he hath ſeen amongſt the chief of them, a Diſpoſition to go away from hence very ſoon, and that they appointed one another to meet at *Bologne*, at *Gordon's* the Merchant, formerly the Pretender's Banker, which *Gordon* will have a ſmall Veſſel ready to carry them into *England* or *Scotland*. All the Particulars he has been able to tell me, are, that *Seaforth* was to leave this place in three Days, and that *Campbell* of *Glanderol* was to be intruſted with their Diſpatches, in caſe they thought fit to ſend away a Courier.

A. 10.

Extract of a Letter from Mr. Crawford *to Lord* Carteret.

THIS is to acquaint you, that none of the chief of the *Jacobites* here are gone as yet from this Place; but *Clanronald*, *Strowan*, *Robinſon*, *Lotheal*, and three or four more of thoſe at St. *Germains*, have an appointment at *Alençon* in *Normandy* on *Monday* next, and are to go from thence to a Houſe belonging to *Giraldin* of St. *Malo*'s Son near the Coaſt. That *Giraldin* of St. *Maloes* is one of their great Agents, in aſſiſting them with Ships and other Neceſſaries from that Port. He was very active in the laſt Rebellion.

There is one Capt. *Kelly* who frequents the *Cock-Tree* and *Will's* Coffee-House, who is much in the confidence of *Dillon* and Lord *Lanſdown*. He was here ſome Months ago, and I am told is very active at preſent in *England*.

Paris May 30. 1722. *N. S.*

A. 11.

Extrait d'une Lettre du Chevalier Schaub *au Lord* Carteret.

JE ne puis encore que vous réiterer de la part de ..... les generalitez que je vous ai deja mandées; que les Jacobites continuent à ſe donner du mouvement, mais qu'ils ſemblent vouloir prendre leurs meſures de plus loin, & qu'on ne lui rapporte rien, qui puiſſe lui faire croire, qu'ils ſoient determinez encore, ni ſur un terme d'Execution, ni même ſur un Projet: Qu'ils perſiſtent à mettre dans leur Nouveau Plan beaucoup d'eſperance, que le Czar les aſſiſtera, & qu'il leur viendra du renfort d'*Italie* & d'*Eſpagne*: Qu'ils ſe pourroit bien que d'*Eſpagne* & d'*Italie*, bien des Jacobites *Irlandois* allaſſent par divers chemins à un Rendezvous qui leur ſeroit donne dans la *Grande Bretagne*.

J'ai appris par diverſes perſonnes, qu'il ſe tient de frequentes conferences de Jacobites chez O'Bryan, ou le Lord *Lanſdown* & *Dillon* ſe trouvent; on me rapporte qu'il s'y parle des Vaiſſeaux que le Czar equippe à Archangel, & que les *Jacobites* y font etat.

..... dit qu'il n'apprend rien de nouveau du cy-devant Duc d'*Ormonde*. Il le croit toûjours en *Eſpagne*, & m'aſſure qu'on apris toutes les precautions poſſibles, pour empecher qu'il n'entre en *France*. ..... m'a montre une Lettre de *Madrid* du 18 *May*, qui porte qu'*Ormonde* devoit partir de la en deux ou trois jours avec toute ſa famille, ſans qu'on ſçut ou il devoit aller: Mais qu'on croyoit qu'il feroit ſemblant de s'etablier à une certaine diſtance de *Madrid*, d'ou il pût enſuite s'eclipſer plus aiſement ſans être appercû. ....me dit pourtant, qu'il ne trouve point que *Dillon* & ceux de ſa Clique icy s'attendent à la venue d'*Ormonde*.

Paris 3. *Juin* 1722.

A. 11.

Tranſlation of an Extract of a Letter from Sir Luke Schaub *to the Lord* Carteret. *Dated at Paris, the* 3*d of* June 1722. *N. S.*

I Can as yet only repeat to you from ..... what I have already acquainted you with in general; that the *Jacobites* are ſtill in motion, but that they ſeem to lay their Deſign deeper, and that they tell him nothing, that may make him believe they are yet determined either as to the Time of Execution, or even as to a Plan; that in their new Plan they have ſtill great hopes, that the Czar will aſſiſt them, and that they ſhall receive ſuccours from *Italy* and *Spain*; that it may happen, that good Numbers of *Iriſh Jacobites* from *Spain* and *Italy* might go by different ways to a Rendezvous, that ſhould be appointed for them in *Great Britain*.

I have learnt from ſeveral Perſons, that there are frequent Conferences of the *Jacobites* at *O'Bryan's*, at which the Lord *Lanſdown* and *Dillon* are preſent. I am told, that they talk there of the Ships which the Czar is fitting out at *Archangel*, and that the *Jacobites* depend upon them.

... ſays,

..... ſays, he has no new Advices concerning the late Duke of *Ormond*. He believes he is ſtill in *Spain*, and aſſures me, that all poſſible precautions are taken to hinder his coming into *France*. .... ſhew'd me a Letter from *Madrid*, of the 18th of *May*, which ſays, that *Ormond* was to depart from thence in two or three Days with all his Family, it not being known where he was to go; but that it was thought he would pretend to fix himſelf at ſome certain diſtance from *Madrid*, from whence he might afterwards more eaſily ſlip away without being taken notice of. ..... however tells me, that he does not find, that *Dillon* and thoſe of his Gang here, wait for *Ormond*'s coming.

Paris 30 *June* 1722. *N. S.*

A. 12.

Extrait d'une Lettre de Rome, Juin 6. 1722. *N. S.*

LES Partiſans du Pretendant commencent à parler, & à dire que l'on verra eclater bientôt quelque Enterpriſe en ſa faveur.

A. 12.

Tranſlation of an Extract of a Letter from Rome, June 6. 1722. *N. S.*

THE Pretender's Friends begin to talk, and give out, that ſome Attempt in his favour will very ſoon break out.

A. 13.

Extract d'une Lettre du Chevalier Schaub *au Lord* Carteret, *à* Paris *le 7 de* Juin 1722. *N. S.*

LES Jacobites ſans reoncer à leur entrepriſe, ont reſolû de la remettre à un autre tems. ..... l'a repeté aujourdhuy à ..... & à moy, avec cette Particularité, que, pour n'être pas decouverts, les Jacobites veulent cacher leurs prochaines meſures au Pretendant même, & garder le Secret entre gens, qui ont encore leur Bien & leur Patrie à riſquer, juſqu'au tems qu'il faudra mettre la main à l'execution. ..... nous a repeté auſſi, que le cy-devant Duc *d'Ormonde* eſt encore en Eſpagne, & que toutes les Precautions ſont priſes pour l'empêcher de paſſer en *France*, ou pour l'arrêter s'il y vient; Et il nous dit qu'*Ormonde* eſt un de ceux, que les Jacobites veulent laiſſer dans l'ignorance de ce qu'ils vont Machiner de nouveau.

A. 13.

Tranſlation of an Extract of a Letter from Sir Luke Schaub, *to Lord* Carteret, *dated at* Paris *the 7th of* June, 1722. *N. S.*

THE Jacobites, tho' they do not give over their Enterprize, have reſolved to defer it till another Opportunity. ..... has repeated it to Day to ..... and Me, with this Particular, that, in order to prevent their being diſcovered, they will conceal their next Deſigns from the Pretender himſelf, and keep the Secret among ſuch as have ſtill their Fortunes and their Country at ſtake, till ſuch time as they are ready for the Execution.

..... has alſo repeated to us, that the late Duke of *Ormond* is ſtill in *Spain*, and that all the Precautions are taken to hinder his coming into *France*, or to ſtop him if he does come; and he tells us, that *Ormond* is one of thoſe, whom the Jacobites will not let into the Knowledge of what they deſign further.

A. 14.

Extrait d'une Lettre de Mr. Crauford, *au Lord* Carteret, Paris June 7. 1722. *N. S.*

J'AI appris de bonne part, que dans la derniere Conférence des Chefs des Jacobites icy, il a été réſolu de ſuſpendre pour le préſent toutes ſortes de mouvements & de préparatifs qui ſe faiſoient parmi eux. *Dillon* a fait ſcavoir aux Officiers *Irlandois*, qui devoient ſe tenir prêts pour ſe gliſſer en Angleterre immediatement aprés l'inſpection, qu'il ne faudra plus y penſer juſqu' à nouvel Ordre : Et le nommé *Jaques Roche*, *Irlandois* eſtable au *Havre-de-Grace*, fameux contrebandier ſur les Côtes d'*Angleterre*, qui étoit venu icy il y a quelques jours, pour arrêter un marché avec *Dillon*, par l'entremiſe de *Cairnie* de St. *Germain* (*Dillon* n'ayant pas voulu que ſon nom parût), a été renvoye juſqu' à une autre occaſion, luy, & les nommés *Hayes* & *Murſey*, deux *Irlandois*, qui ont leurs Vaiſſeaux dans la Seine. Ces gens devoient s'obliger à tenir leurs Vaiſſeaux prêts pour tranſporter en *Angleterre* le monde que *Dillon* leur envoyroit, malgrè toute ſorte de défence qu'il pourroit y avoir de la part de la Cour icy, & de courir les riſques ſur les Côtes d'*Angleterre*. Il eſt certain que l'execution des deſſeins des Jacobites n'eſtoit projettée qu'aprés le depart du Roy pour *Hannover*, & que le fonds en étoit les aſſeurances qu'on donnoit d'*Angleterre* de ſe rendre d'abord les Maîtres de la Tour & de la Ville de *Londres*.

A. 14.

A Tranſlation of an Extract of a Letter from Mr. Crawford *to Lord* Carteret, Paris June 7. 1722. *N. S.*

I have learnt from a good Hand, that in the laſt Conference of the Heads of the Jacobites here, it was reſolved to defer for the preſent all ſorts of Motions and Preparations which were making among them. *Dillon* has acquainted the *Iriſh* Officers, who were to hold themſelves in a readineſs to ſlip into *England* immediately after the General Review, that that they ſhould not think of it any more till further Orders : And *James Roche*, an *Iriſhman* ſetled at *Havre de Grace*, a noted Smugler upon the *Engliſh* Coaſt, who came here ſome Days ago to ſettle an Agreement with *Dillon*, by the means of *Cairnie* of St. *Germain* (*Dillon* not being willing to have his Name appear in it), has been put off to another Opportunity, he, and *Hayes* and *Murfey*, two *Iriſh* Men, who have their Ships in the *Seine*. Theſe People were to oblige themſelves to have their Ships ready to tranſport to *England*, the Men whom *Dillon* ſhould ſend to them, notwithſtanding any ſort of Prohibition that might come from the Court here, and to take their chance upon the Coaſt of *England*. It is certain, the Jacobites did not intend to put their Deſigns in execution, till after the departure of the King for *Hanover*, and that the Grounds they went upon, were the aſſurances given from *England*, that the Tower and City of *London* ſhould be immediately ſecured.

A. 15.

Extract of a Letter from Col. Stanhope *to Lord* Carteret, *Dated at* Madrid June 8. 1722. *N. S.*

UPON the 5th Inſtant I received the Honour of your Lordſhip's Letter of the 10th of *May* O. S. in which you are pleaſed to acquaint me with the Reaſon for the Guards being ordered to encamp, and for the other Preparations being made in *England*, as in caſe of apprehenſions of a Rebellion or Invaſion ; and finding that theſe Precautions, together with Mr. *Walpole*'s being ſent to *Holland* to demand Forces from thence, had made a great deal of noiſe here, I thought it proper to communicate to his Catholick Majeſty the Account you was pleaſed to tranſmit to me of them, which I accordingly did the Day following, by Letter to the Marquis *de Grimaldo*, in the manner I received it from your Lordſhip; and upon having had Intelligence to be relied upon, that the Duke of *Ormond* intended ſpeedily to paſs into *England*, with a great Number of *Iriſh* Officers now in the Service of his Catholick Majeſty, in order to put himſelf at the Head of the Rebels there, and for that purpoſe would ſet out from hence to Morrow, under pretence of going for the reſt of the Summer to *Ventoſilla*, a Houſe of the Duke of *Medina Celi*, half way from hence to *Bilboa* ; but, in reality, to be thereby readier to paſs to that Port with leſs Suſpicion, and imbark from thence for *England*, whenever Matters ſhould be ripe for his ſo doing ; I thought it my duty to uſe my utmoſt endeavours for the preventing of him from putting his Deſigns in execution,

tion, and altho' I had not been commanded by his Majeſty to make any Inſtances to this Court in Relation to the ſaid Duke, &c. I hop'd, if I ſhould have err'd in taking upon my ſelf the doing of it, his Majeſty would be graciouſly pleaſed to pardon it, as an effect of a Zeal that would not ſuffer me to neglect any thing that carried the leaſt poſſibility of being for his Service, in an affair of the Nature with the preſent one; and therefore ventured to ſend another private Letter the ſame Day to the Marquis *de Grimaldo* (of which herewith is a Copy) who immediately upon the Reception of it, writ me the encloſed Anſwer, which I receiv-ed this Morning; and altho' the Succeſs fully anſwers what I propoſed by my ſaid Letter, yet as the writing of it might poſſibly have had an ill Effect, in caſe the King of *Spain* had re-fuſed what I demanded, as carrying an appearance of his not being ſo zealous in his Friend-ſhip for his Majeſty, as in the preſent Circumſtances it is convenient he ſhould be thought to be; I hope your Lordſhip will excuſe my troubling you with the Reaſons that weighed with me, for the getting over that Conſideration, *viz.* the undoubted knowledge I flattered my ſelf with having of the ſincere Friendſhip of his Catholick Majeſty for the King our Ma-ſter, and of his having entirely abandoned the Intereſt of the Pretender, from the Aſſu-rances he has been pleaſed to give me himſelf of both, and from the repeated Confirmation of the ſame things from the Marquis de *Grimaldo*. I am aſſured by a good hand, that there is at preſent in Mr. *Brown's* Hands, an *Iriſh* Merchant at *Bilbao*, near 12000 Arms for the Pretender's Service; that one Captain *Morgan*, formerly an Agent in *England*, and at pre-ſent commanding three ſmall Ships of 30 odd Guns, upon the Coaſt of *Spain*, is to ſail to the Bay of *Biſcay*, in order to tranſport the ſaid Arms to *England*, together with the Duke of *Ormond*, and what Officers and Men can be got; that the Place for Landing is moſt certainly either *Briſtol*, *Milford*, or *Hylake*, tho' the unexpected Diſcovery of the Conſpira-tion, may poſſibly ſtop the Duke of *Ormond's* Departure. The *Spaniſh* Squadron conſiſting of five Men of War and four Frigats, ſailed from *Cadiz* on the firſt Inſtant towards Cape St. *Vincent*, to cruize againſt the *Algerines*.

A. 16.

Copie de la Lettre de Mr. Stanhope *au Marq. de* Grimaldo.

Monſieur,

AYANT des choſes à communiquer à V. Exce. qui ſeroient pluſtot propres à être traitées de bouche que par Ecrit, j'aurois ſouhaité de Pouvoir me rendre en Perſonne auprés d'Elle à *Balſain*, mais craignant qu'il ne ſoit deſagreeable à S. M. que Perſonne y aille ſans ſa permiſſion, je n'ai pas voulu prendre cette liberté; mais ayant une entiere confiance en la bonté de V. E. & en l'Amitié particuliere, dont Elle a bien voulu toûjours m'honorer, je me ſuis determiné de m'ouvrier à Elle, non pas en Ambaſſadeur du Roy mon Maître au Mi-niſtre d'Etat de S. M. Cque, mais en Amy, s'il m'eſt permis de me flatter de ce Titre. Ce que j'ai donc à dire à V. E. eſt, que par les avis que j'ai reçu de toutes parts, je ſuis pleinement convaincu que le *Duc d'Ormonde* n'eſt pas ſeulement engagé dans la Conſpiration mentionée dans ma Lettre qui accompagne celle-cy, mais qu'il eſt actuellement dans l'intention de paſſer in-ceſſament en Angleterre, pour ſe mettre à la tête des Conjurés, & que pour cette fin il ſortira dans trois jours de *Madrid*, ſous pretexte d'aller à *Ventoſilla*, mais veritablement pour eſtre plus à portée de *Bilbao*, & paſſer de la en *Angleterre* avec beaucoup d'Officiers *Irlandois* à preſent au Service de S. M. Cque. Cet avis ne laiſſe pas de me donner quelque inquietude, & quoi-que j'avoue, de n'avoir pas reçu ordre de ma Cour de faire des inſtances auprés de S. M. Cque, à l'egard du Duc *d'Ormonde* & des autres Officiers, je l'ai cru neanmoins de mon devoir de communiquer à V. Exce. ce que je viens d'apprendre touchant eux, me rapportant à la grande Sageſſe de V. E. de ſa bonté pour moy, d'en rendre compte à S. M. Cque. Tout ce que j'oſe avancer de dire de plus à V. E. eſt, que ſi S. M. Cque. vouloit bien prendre des meſures efficaces pour empecher au Duc *d'Ormonde* & aux autres Officiers *Irlandois* la Sortie de Ses Etats, juſqu'à ce que les Affaires du Roy mon Maître en Angleterre ſoient tranquiliſées; cette attention & grande inſtance de Son Amitié dans un Tems ſi delicat, ne manqueroit pas de trouver dans l'Eſprit du Roy mon Maitre toute la Reconnoiſſance, qu'un tel bon Office meritera ſi juſtement. Je ſerai dans la derniere impatience de recevoir les Sentiments de V. E. ſur cette Lettre, & auſſi de ſçavoir qu'Elle a pardonnée la liberté que je viens de prendre. Je ſuis, &c.

Wm Stanhope.

A Madrid, le 6th de Juin, 1722.

A 16.

Tranſlation of a Letter from Mr. Stanhope *to the Marquis of* Grimaldo.

HAVING ſome Things to communicate to your Excellency, which would be fitter to be diſcours'd of by word of mouth, than to be ſent in writing, I could wiſh it had been in my Power, to wait upon you my ſelf at *Balſain*; but fearing that his Majeſty might be diſpleas'd at any Body's going thither without his Leave, I would not take that Liberty; but having an entire Confidence in your Excellency's Goodneſs, and in the particular Friendſhip which you have always been pleaſed to honour me with, I have determin'd to open my ſelf to you, not as an Ambaſſadour from the King my Maſter to his Catholick Majeſty's Miniſter of State, but as a Friend, if I may be allow'd to flatter myſelf with that Title. What I have therefore to ſay to your Excellency is, that by the Advices I have receiv'd from all Hands, I am fully convinc'd, that the late Duke of *Ormond* is not only engag'd in the Conſpiracy mention'd in my Letter which accompanies this, but actually intends to go ſpeedily into *England*, in order to put himſelf at the Head of the Conſpirators, and that for that Purpoſe, he will leave *Madrid* in three Days, under the Pretence of going to *Ventoſilla*, but in reality with a Deſign to be more in reach of *Bilbao*, and to croſs over from thence into *England*, with abundance of *Iriſh* Offices, who are now in his Catholick Majeſty's Service. This Advice cannot but give me ſome Uneaſineſs, and tho' I confeſs that I have not received Orders from my Court to make Inſtances with his Catholick Majeſty as to the late Duke of *Ormond* and the other Officers, I have nevertheleſs thought it my Duty to communicate to your Excellency, what I have lately heard about them, leaving it to your Excellency's great Wiſdom and Goodneſs towards me, to give an account of it to your Catholick Majeſty. All that I dare ſay farther to your Excellency is, that if his Catholick Majeſty would take effectual Meaſures to hinder the late Duke of *Ormond* and the other *Iriſh* Officers, from going out of his Dominions, till the King my Maſter's Affairs in *England* are quieted, this Attention and great Inſtance of his Friendſhip at ſo niee a time, would not fail to meet in the King my Maſter's Mind, all the Acknowledgment, that ſuch a good Office will ſo juſtly merit. I ſhall be in the utmoſt Impatience to receive your Excellency's Sentiments upon this Letter, and likewiſe to know you have pardon'd the Liberty I have now taken. I am, *&c.*

Wm Stanhope.

Madrid, 6th June, 1722.

A. 17.

Copy of the Marq. de Grimaldo's *Letter to Col.* Stanhope.

SENOR mio. Eſta tarde alas quatro recivi por mano de Dr. Claudio de la Roche el Pliego de V. E. que incluhia ſus dos Papeles de fha de ayer, uno en que ſe ſirve expreſarme la Conſpiracion que S. M. Britannica havia deſcubierto ſe tramava entre algunos de ſus Vaſſallos, y precauſiones tomadas para extinguir la, y otro comunicandome confidencialmente V. E. los reiterados aviſos con que ſehalla de que el Duque de *Ormond*, no ſolo eſta empenado en la Conſpiracion, pero que ſe halla en animo de paſar luego a *Inglaterra* para poner ſe a la Caveza de los Conſpirados, y que a eſte fin partirà luego à Ventoſilla para eſtar mas proxſimo a Bilbaa, yhaviendome parecido dignos uno y otro Papel de la Noticia del Rey mi Amo, he dado quenta de ellos eſta noche a S. M. qui en deſeando dar nuevas mueſtras de ſu fiel amiſtad a S. M. Britannica ſe ha ſervido mandar ſe expidar las Ordenes combenientes, para que en los Puertos de ſus Dominios ſe detenga al Duque de *Ormond* y alos Oficiales *Irlandeſes* que dice V. E. le ſiguen, yno ſe les permita el embarco, en caſo de llegar a alguno de ellos, como V. E. deſea aſegurando a V. E. de la promptitud con que S. M. contribuira ſpre a todo quanto pueda ſer de la Satisfacion de S. M. Britannica ymas particularmente a la quietud de ſu Regno y ſu Mr. Soſiego.

Quedo con la noticia que V. E. ſe ſirve darme y he pueſto tanbien en la del Rey de las Ordenes dedas a Milord *Whitworth* dara accelerar ſu paſage à *Londres* a fin de encaminarſe luego a *Cambray* yme repito a la ovediencia de V. E. con todo afecto. Dios g^e. a V. E. m^s a^s.

El Marq. de Grimaldo.

Balſayn a 7. de *Junio* 1722.

Une Lettre du Marq. de Grimaldo, *à Mr.* Stanhope. Balſain, 7 Juin, 1722.

Monſieur,

J'AY receu cet aprés midy ſur les quatre heures par les Mains du *Sr. Claude de la Roche*, le Paquet de V. E. qui renfermoit vos deux Papiers datés d'hier; l'un dans lequel il vous plait de me Marquer la Conſpiration que S. M. B. avoit decouvert qui ſe tramoit entre quelques uns de ſes Sujets, et les Precautions qui avoient été Priſes pour l'eteindre; l'autre dans lequel vous me communiquez en confidence les avis reiterés que vous avez que le Duc d'*Ormond* non Seulement eſt engagé dans la Conſpiration, mais a deſſein de paſſer au plutôt en *Angleterre*, pour ſe mettre à la tête des Conjurez, et qu'à cet effet il partira au plus tôt pour ſe rendre a *Ventoſilla*, a fin d'être plus à la portée de *Bilbao*: Et comme l'un et l'autre Papier m'a paru digne de la Connoiſance du Roy, j'en ay rendu compte ce ſoir même à ſa Majeſte, qui deſirant de donner de nouvelles Marques de ſon Amitié fidele à S. M. B. a bien voulu faire expedier les Ordres convenables, pour que dans tous les Ports de ſes Etats, l'on Arrete le Duc d'*Ormond* et les Officiers *Irlandois* que vous dites qui le ſuivent et qu'il ne leur ſoit pas permis de s'embarquer en cas qu'ils arrivent dans aucun de ces Ports, comme V. E. le deſire; vous aſſeurant, Monſieur, de l'Empreſſement avec lequel S. M. contribueroit toujours à tout ce qui peut être de la Satisfaction de S. M. B. et plus Particulierement au Repos de ſon Royaume, et à ſa plus grande Tranquillité.

J'apprends ce qu'il vous plait me Marquer et que J'ay communiqué au Roy, des ordres donnés à my Lord *Whitworth* de hater ſon Paſſage à *Londres* a fin qu'il ſe rende au pluſtot à Cambray, et je ſuis toujours, *&c.*

A *Balſain*, ce 7 *Juin*, 1722. *Le Marqueſs de Grimaldo.*

A. 17.

Tranſlation of the Marqueſs de Grimaldo's *Letter to Col.* Stanhope. Balſain, 7 *June*, 1722.

Sir,

I Received this Afternoon at Four by the Hands of Mr. *Claudio de la Roche*, your Excellency's Pacquet, which incloſed your two Papers of Yeſterday's Date; in one of which you are pleaſed to acquaint me with the Conſpiracy which His Britannick Majeſty had diſcover'd to be carrying on amongſt ſome of his Subjects, and the Meaſures taken to ſuppreſs it; and the other communicating to me, in confidence, the repeated Advices which your Excellency has, that the Duke of *Ormond* is not only engaged in the Conſpiracy, but intends to paſs over immediately into *England*, in order to put himſelf at the Head of the Conſpirators, and that for that purpoſe he will quickly ſet out for *Ventoſilla*, in order to be more in reach of *Bilbao*; and having thought thoſe two Papers worthy to be laid before the King my Maſter, I have this Evening given an account of them to his Majeſty, who being deſirous to give new Proofs of his faithful Friendſhip to His Britannick Majeſty, has been pleaſed to direct the diſpatching the proper Orders, that the Duke of *Ormond*, and the *Iriſh* Officers, who your Excellency ſays are attending him, may be ſtop'd in the Ports of his Dominions, and not ſuffer'd to imbark, in caſe they ſhould come to any one of them, as your Excellency deſires; aſſuring your Excellency of the readineſs with which his Majeſty will ever contribute to all that can be for His Britannick Majeſty's Satisfaction, and more particularly for the quieting of his Kingdom, and its greateſt Tranquility.

I have received the Notice your Excellency is pleaſed to give me, which I have alſo laid before the King, of the Orders given to my Lord *Whitworth*, to haſten his Paſſage to *London*, in order to make his way immediately to *Cambray*, and I am, *&c.*

The Marqueſs de Grimaldo.

A. 18.

Extrait d'une Lettre de Rome *du* 13 Juin, 1722.

IL eſt tres conſtant, que le Pretendant compte ſur quelque Revolution prochaine en ſa Faveur, et je continue d'obſerver qu'entre luy et les Adherens icy il ſe traite quelque choſe de la derniere Importance. Et j'apprends dans ce moment, que le Pretendant vient d'expedier un de ſes Valets de Chambre pour *Londres* avec des Commiſſions importantes.

A. 18.

Tranſlation of a Letter from Rome *of the* 13*th of* June, 1722.

IT is moſt certain that the Pretender expects ſome early Revolution in his Favour, and I continue to obſerve that ſomething of the greateſt Importance is treating between him and his Adherents here. And I learn this Moment, that the Pretender has juſt diſpatched one of his Valets de Chambre to *London* with important Commiſſions.

A. 19.

Extrait d'une Lettre du Chevalier Schaub, *au Lord* Carteret, *à* Paris, *le* 13 Juin, 1722. *N. S.*

J'Ay recapitulé avec le ..... toutes les Circonſtances que je vous ay mandées précédemment touchant le Complot des Jacobites, et il me les a repetées de même. Je n'ay pas oublié le Memoire que my Lord *Lanſdown* devoit avoir preparé, et ..... m'a dit, que les Jocobites n'ont pas trouvé à propos de le preſenter à S. A. R. des le moment qu'ils ſe ſont ſentis découverts.

A. 19.

Tranſlation of an Extract of Sir Luke Schaub's *Letter to my Lord* Carteret, *dated at* Paris 13 June 1722.

I Have recapitulated with ..... all the Particulars which I have before acquainted you with concerning the Deſign of the Jacobites, and he has repeated them to me in the ſame Manner. I did not forget the Memorial which my Lord *Lanſdown* was to have prepared, and ..... told me, that from the Moment that the Jacobites found they were diſcovered, they have not thought it proper to preſent it to his Royal Highneſs.

Extract

Extract of a Letter from Mr. Stanhope *at* Madrid, *dated the 15th of* June, 1722. *N. S. to Lord* Carteret.

My Lord,

I Have received the Honour of your Lordſhip's Letter of the 17th of *May*, *O. S.* wherein you are pleaſed to acquaint me, that it is His Majeſty's Pleaſure that I inform my ſelf, as exactly as I can, of the Motions of the Jacobites in *Spain*, and particularly of thoſe of the late D. of *Ormond*; which I ſhall uſe my utmoſt Diligence in doing, and tranſmitting regularly to your Lordſhip what Advices I ſhall be able to procure upon that Head.

..... poſitively aſſures me, that the 3 Ships with *Morgan* mentioned in my laſt of the 8th Inſtant, are already arrived upon the Coaſt near *Bilbao*.

The late D. of *Ormond* is ſtill here, tho' all his Family and Equipage has been gone to *Ventoſilla* above theſe Three Weeks, which obliges him to Dine and Sup every Day with Lady *Arthur*, he having not ſo much as a Knife or a Fork left here, which particularly I mention, that your Lordſhip may ſee he has nothing left here but his own Perſon to tranſport, whenever he ſhall think Matters ripe for his ſo doing. He has put off his Departure from Day to Day this Fortnight, without giving any tolerable Reaſon for his ſo doing. But I am aſſured he waits only for Advice from *England* by which he is to govern himſelf.

Since my writing thus far, I am undoubtedly aſſurod, that the late D. of *Ormond* has reſolved not to leave *Madrid*, and that he has this Day ſent for his Family to return hither from *Ventoſilla*, and that Orders have been diſpatched to Lord *Mareſhall*, who was upon the Road from *Valentia* for *Biſcay*, to return back again, and that the Deſign of paſſing into *England* is, for the preſent at leaſt intirely laid aſide, the late Diſcovery there of the Conſpiracy having diſappointed all their Meaſures.

A. 21.

Extract of a Letter from Mr. Crauford *to Lord* Carteret, *dated at* Paris, 24 June, 1722. *N. S.*

THE Jacobites are now retiring to *St. Germains*; the only Motion they are making at preſent is ſending *Iriſh* Prieſts in Diſguiſe into *Ireland*, to raiſe Recruits.

A. 22.

Extrait d'une Lettre de Rome, *du* 27 Juin, 1722.

J'AI été averti que ſur la Decouverte du dernier Complot contre *l'Angleterre*, on attend depuis trois jours au Palais du Pretendant quelques Seigneurs, qui doivent deja eſtre en chemin *d'Angleterre* pour venir a *Rome*. Il eſt certain que le Pretendant et tous ſes Adherens ſont dans une Conſternation inconcevable. Un

Capitaine

Capitaine *Irlandois* arrivé depuis peu à *Civita-Vecchia* avec ſon Vaiſſeau, ſous Pretexte qu'il devoit y charger le reſtant des Bagages du Cardinal *da Cunha*, a été deux jours conſecutifs en Conference avec le Pretendant. On m'aſſure que c'eſt le même Homme qui devoit embarquer le Fils du Pretendant pour le tranſporter en *Ecoſſe*, ſi le Complot n'avoit pas été decouvert en *Angleterre*.

A. 22.

Tranſlation of an Extract of a Letter from Rome, *dated the 27th of* June, 1722.

I AM informed that upon the Diſcovery of the laſt Conſpiracy againſt *England*, ſome Lords who are thought to be already on the Road from *England* on their Way to *Rome*, have been theſe Three Days expected at the Pretender's Palace. It is certain that the Pretender and all his Adherents are in an inconceivable Conſternation. An *Iriſh* Captain, who arrived lately at *Civita-Vecchia* with his Ship, under Pretence that he was to take on Board there the Remainder of Cardinal *d'Acunha*'s Baggage, has been Two Days together in Conference with the Pretender. I am aſſured that he is the ſame Man who was to receive on Board the Pretender's Son in order to carry him into *Scotland*, if the Plot had not been diſcovered in *England*.

A. 23.

Extrait d'une Lettre de Rome, 4 Juillet, 1722.

VOicy les Circonſtances du dernier Deſſeign du Pretendant pour envahir *l'Angleterre*, telles que ..... me les raconta hier, et que ſes Amis de *Madrid* l'en ont informé. ..... eut ordre de ſe rendre à *Bagnani* d'abord qu'il auroit reçu nouvelle de l'Arrivée à *Portolongone* de deux Officiers *Anglois* Parents du ci devant Duc d'*Ormond*. Le Pretendant devoit ſe rendre auſſi à *Bagnani*, d'abord qu'il auroit eû avis que quelques Vaiſſeaux de Guerre l'attendoient ſur la hauteur de *Corſica*. Un Vaiſſeau Marchand, dont le Capitaine eſt *Irlandois*, qui a croiſé exprés ſur la Côte de *Toſcane* pendant tout le tems que ..... en Compagnie des dits deux *Anglois*, ont été a *Bagnani*, les devoit conduire abord. Les Jacobites ſe flatterent de pouvoir tenir caché en *Eſpagne* le Pretendant, juſques à ce qu'on eut vû conformement aux Promeſſes de ſes Adherents un Soulevement en *Angleterre*: ..... dit que ce Plan eſt veritable dans toutes ces Circonſtances, et a conclû que quatre choſes l'avoient fait echoüer: Le Manque d'Argent. La Foy equivoque du Regent. Le Peu d'Addreſſe de ceux qui etoient Chargés de l'Execution. La Timidité du Pretendant, lequel pour ne pas ſe riſquer luy même, propoſoit d'envoyer ſon Fils. Le Pretendant attend tous les jours de nouveaux Refugiés d'*Angleterre*.

A. 23.

Tranſlation of an Extract of a Letter from Rome, *dated the 4th of* July, 1722.

THESE are the Circumſtances of the laſt Deſign of the Pretender for invading *England*, ſuch as ..... acquainted me with Yeſterday, and his Friends at *Madrid* have informed him of. ..... had Orders to go to *Bagnani*,

nani, as ſoon as he ſhould have received Information that two *Engliſh* Officers, who were Relations to the late Duke of *Ormond*, were arrived at *Portolongone*. The Pretender was likewiſe to have gone to *Bagnani*, as ſoon as he ſhould have got Advice that ſome Men of War were waiting for him off of *Corſica*. A Merchant-Ship, the Maſter whereof is an *Iriſhman*, which has cruiſed for that very Purpoſe on the Coaſt of *Tuſcany*, all the while ..... in Company of the ſaid two *Engliſhmen* remained at *Bagnani*, was to have conducted them on Board. The Jacobites flatter'd themſelves that they might keep the Pretender conceal'd in *Spain* till ſuch Time, as agreeable to the Promiſes of his Adherents, there ſhould have happened an Inſurrection in *England*. ..... ſays, that this Plan is true in all its Circumſtances, and concluded that four things had cauſed it to miſcarry. Want of Money. The equivocal Faith of the Regent. The Want of Addreſs in thoſe who were entruſted with the Execution of it. The Pretender's Timorouſneſs, who, not to expoſe himſelf, propoſed the ſending his Son. The Pretender daily expects new Refugees from *England*.

A. 24.

Extrait d'une Lettre de Rome, *de l'* 11 Juillet, 1722.

ON a icy de certaines Nouvelles que les Adherens du Pretendant ont recommencé leurs Armemens et par Mer et par Terre avec beaucoup de hâte. L'argent n'y manque plus.

A. 24.

Tranſlation of an Extract of a Letter from Rome, *dated* 11 July, 1722.

THere are certain Advices here, that the Pretender's Adherents have begun anew their Armaments by Sea and Land, with great haſte. Money is no more wanted.

Extrait d'une Lettre de ..... de Rome *en date du* 11 Juillet, 1722, N. S.

A. 25.

..... m'a dit, qu'il avoit des avis tres certains, que les Amis du Pretendant, qui avoient diſcontinue leur Armement ſur la decouverte de la Conſpiration, l'ont de nouveau repris, qu'ils ont reſolu de nouveau de faire une deſcente ſoit en *Irlande*, ſoit dans la *Grande Bretagne*, et qu'ils veulent tout hazarder pour profi-

ter des Emotions preſentes, que leurs Partiſans les y invitent pour ſe mettre à couvert ſe croyant trop expoſés. Il me dit encore que ces avis viennent des mêmes Perſonnes, de qui il a eu les premiers, que l'evenement a fait voir etre veritables. Car le Pretendant n'attendoit que le depart du Roy pour paſſer en *Angleterre*, et il n'y a que la decouverte du Complot, qui l'en ait empeché pour cette fois là. Les Adherens du Pretendant icy n'ont pû diſſimuler leur Chagrin de la decouverte de la Conſpiration, Ils ſemblent reprendre Courage a preſent, auſſi bien que le Pretendant, qui pour quelque tems avoit été dans une plus grande melancholie que jamais.

A. 25.

Tranſlation of an Extract of a Letter from ..... *from* Rome, *dated* 11 July, 1722, N. S.

..... has told me, that he had moſt certain Advice, that the Pretender's Friends, who had diſcontinued their Armament upon the diſcovery of the Conſpiracy, were going on with it again; that they have again reſolved to make a Deſcent either in *Ireland*, or *Great Britain*, and that they will hazard all to take advantage of the preſent Emotions; that their Partiſans invite them thereto that they may ſhelter themſelves, thinking they are too much expoſed. He told me beſides, that thoſe Advices came from the ſame Perſons, from whom he had received the former, which have been verified by the Event. For the Pretender only waited for the King's Departure, to go over into *England*; and nothing but the Di covery of the Plot did prevent his going at that time. The Pretender's Adherents here have not been able to hide their Concern at the diſcovery of the Conſpiracy. They ſeem to have got new Courage at preſent, as alſo the Pretender, who for ſome time had been more Melancholy than ever.

A. 26.

Copy of a Letter from Sir Anthony Weſcombe, *to Lord* Carteret, *dated at* Corunna, July 13, 1722, O. S.

My Lord,

ALtho' I find ſome Tidings of *Morgan*'s three Ships of War in theſe Parts, it is only by Account had of them from other Places, for he has never come near this or any other Port in *Galicia*; it is ſuppoſed I may hear fully of him in *Biſcay*: If ſo, I ſhall take of his Ships at leaſt.

There has been no Veſſels here of any Nation a good while, ſave only one not to be omitted. It was called the *Eſperanza*, *Peter Power* Maſter, mounted with 10 Guns, and had on Board 3000 Muſquets loaded at *Bilboa*, and conſigned to *Cadiz* for the King of *Spain*'s Account, as by the Papers he produced ſeemed to appear; he was here the 21ſt of *June*, and ſailed away ſoon after, which is a conſiderable Time after the intended Invaſion was ſtopt by Mr. *Stanhope*'s Application and Care, the late Duke of *Ormonde* recalled to *Madrid* from his Road to *Bilboa*, and all the Jacobites that were flocking from all Parts of *Spain* to theſe Coaſts, gone back to their lurking Holes again; this Circumſtance, together with the Account I have had from a ..... here, leaves me no room to doubt, but that theſe Muſquets were Parcel of the 12000 lodged at *Bilboa* for the intended Invaſion. This Veſſel went Weſtward.

I am, &c.

Extract

Extract of a Letter from Sir Anthony Weſcombe, *to Lord* Carteret, *dated at* Corunna, 13 July, 1722, N. S.

OF *Iriſh* there is ſome ordinary Fellows that are Inhabitants of this Place, beſides one Captain *Tyrrol*, and Captain *Salter Talbot*, who have been ſome time in the Spaniſh Service, and are now on the Foot and Pay of *Invalids*; and the Chief of all one *Peter Stafford*, Knighted by the Pretender when he was here, a ſort of a Merchant without Buſineſs, Trade or Pay from the King of *Spain*, and yet he wants no Money: It is certain that he is an Agent here for the Pretender, and has ſome Gain both to debauch our Sailors, and to comfort and aid ſuch as ſhall come from *Ireland*, or ſuffer for the Cauſe. He is pretty narrowly watched by the Conſul, and can't well do any thing without his Knowledge: All other Jacobites that were coming to any of theſe Parts, are retired again into the Heart of the Kingdom, on the News of the Diſappointment of the Invaſion againſt *Great Britain*.

A. 28.

Extract of a Letter from Sir Anthony Weſcombe *to Lord* Carteret, *dated at* Corunna 14 July, 1722, N. S.

THE Recruits from *Ireland* arrived to this Place, (I mean only thoſe we get any Account of with Certainty,) are about 450 Men, *viz.* Two ſmall Veſſels from *Cork* with 120 Men, the Maſters unknown; a Ketch called the *Crown*, *Henry Ward* Maſter, from *Cork*, with 80 Men; another ſmall Veſſel with 40 Men; a Sloop called the *Hopewell*, *Adam Wilſon*, Maſter, with 140 Men, landed at the little Port of *Laſtres*. All theſe were here called Recruits for *Sherlock's* Reigment. This Fellow tis ſaid was a Farmer in *Ireland*, but now is a Sort of an Agent for the *Pretender* at *Madrid*, and was this Spring raiſing Forces for his Maſter's Service; He is a Relation and Support of *Peter Stafford*, of this Place, mentioned in my Former.

I am informed juſt now that the *Viceroy* has received Orders from his Court, in caſe the Duke of *Ormond* ſhould come this way to embark, for any Place, to ſtop him.

A. 29.

Extrait d'une Lettre de Rome, du 18 Juillet, 1722, N. S.

CET apreſmidi la Princeſſe *Sobieski* eſt partie du Côté de la *Toſcane* pour aller prendre les Bains de *Lucca*. On dit qu'on l'a fait partir, pour pouvoir d'autant plus Secretement faire partir le Pretendant avec les Vaiſſeaux qui ſont attendus

ſendus ſur les Côtes de *Toſcane*. On débite que le Pretendant paſſera l'Eté à *Albano*, juſques au Retour de la Princeſſe *Sobieski*. S'il y va, cela ſera ſeurement pour cacher quelque autre Voyage de plus loin.

A. 29.

Tranſlation of an Extract of a Letter from Rome, *dated* July 18, 1722, N. S.

THe Princeſs *Sobieski* ſet out this Afternoon, by the way of *Tuſcany*, to go to the Baths of *Lucca*. It is ſaid that ſhe is ſent thither, to give the Pretender an Opportunity of going off more privately with the Ships, that are expected upon the Coaſt of *Tuſcany*. It is given out that the Pretender will paſs the Summer at *Albano*, till the Return of the Princeſs *Sobieski*. If he goes thither, it will certainly be to cover ſome longer Journey.

A. 30.

Extrait d'une Lettre de Mr. Crauford *au Lord* Cartèret, *à* Paris, 18 Juillet, 1722, N. S.

LES deux Freres *Wogans* ſont arrivés icy depuis avant hier d'*Eſpagne*, et *Morgan* doit être arrivé à *Morlaix* en *Bretagne* avec ſes Vaiſſeaux.

Il y a un nomme *Sercute*, un des Moines Benedictins *Anglois*, qui doit être dépeché, au premier jour en *Angleterre*, comme Courier. Il eſt en grande Confiance parmi les Jacobites, et s'eſt diſtingué dans ce parti par les mouvements qu'il s'y eſt donnés pendant la derniere Rebellion, ayant ſouvent quitté le Froc pour rendre ſervice à la Cauſe. Je tacherai de le faire attrapper, quoiqu' il ſoit aſſes adroit. Il eſt Frere (à ce qu on m'a dit) du Chevalier *Edward Sercute* d'une bonne Famille en *Angleterre*.

A. 30.

Tranſlation of an Extract of a Letter from Mr. Crauford *to the Lord* Carteret, *dated* Paris July 18, 1722, N. S.

THE Two Brothers *Wogans*, arrived here the Day before Yeſterday from *Spain*, and *Morgan* muſt be arrived by this time at *Morlaix* in *Britany*, with his Ships.

There is one *Sercute*, an *Engliſh* Benedictine Monk, who is to be very ſpeedily diſpatched as a Courier to *England*; he is much in the Confidence of the Jacobites, and has diſtinguiſhed himſelf in that Party by his Activity during the laſt Robellion, having often thrown of his Habit to ſerve the Cauſe. I ſhall endeavour to get him ſecured, though he his pretty dexterous. I am told he is a Brother of Sir *Edward Sercute*, of a good Family in *England*.

Extrait d'une Lettre de Mr. *Crawford* de *Paris* en datte du 25. Juillet 1722. *N. S.* au Lord *Carteret.*

LES Wogans dont j'ay fait mention dans ma Lettre du 18. S'appellent tous deux Nicolas. L'un eſt le Fils aîné de Wogan de Rathcoffee en Irlande; & l'autre eſt ſon Couſin, le Frere Cadet de Charles Wogan qui eſt avec le Pretendant à Rome. Celuy de Rathcoffee devoit commander un des Vaiſſaux ſous Morgan, & l'autre devoit être ſon Lieutenant. Le Cadet etoit deſtiné pour le ſervice de Terre dans le Regiment de Lyria. Ils ont un peu jazé ſur l'echouëment de leur Projet en Eſpagne; Ils ont avoué, que, ſelon les lumieres qu'ils avoient de leur projet, il ſe devoit faire un Debarquement dans l'oüeſt d'Angleterre du cy devant Duc d'Ormond avec quelques Officiers Irlandois & des Armes. Et que toutes choſes y devoient être prêtes pour leur reception. Ils n'ont pas avis encore que Morgan ſoit arrivé à Morlaix, mais ils l'attendent à touts moments, & ill doit venir icy à Paris. Les Wogans ſemblent croire toujours qu'ils iront bientôt en Angleterre.

Je viens de decouvrir qui eſt Mr. Digby auquel la Lettre dont V. E. a envoyée la Copie au Chevalier Schaub, etoit addreſsée, plût à Dieu qu'on peut auſſy facilement & ſeurement decouvrir Mr. Rogers & les Amis en Angleterre.

J'ay cacheté un plie du Papier en forme de Lettre avec une Addreſſe deſſus à Mr. Digby à Paris, Je l'ay enveloppé dans un morceau de Papier chiffonné avec un memorand. dedans pour S'informer à Mr. Waters Banqr. dans la Rue Chriſtine de la demeure de Mr. Digby à Paris. Je l'ay donné ainſy accommodé à un Garçon adroit qui parle François & Anglois & luy ordonnay d'aller botté & un peu crotté chez Waters, de developper devant luy la fauſſe Lettre & de lire ſon Memorand. en luy montrant l'addreſſe de la Lettre & de le prier en meme tems d'envoyer quelqu'un avec luy pour le conduire où il devroit la rendre, qu'auſſitôt qu'il ſeroit à la porte où il devroit entrer pour la rendre, il pretendroit avoir oublié un paquet chez luy, & faiſaint ſemblant de s'en retourner chercher le paquet, il S'eſquiveroit de ſon Conducteur.

La choſe à reuſſi avec plus de facilité que je ne m'etois attendu, car Waters n'etoit pas chez luy, & mon homme a ſi bien joué ſon rolle que le premier Commis de Waters ſans ſe donner la peine de ſortir luy a ecrit l'addreſſe ſur ma fauſſe Lettre de le façon dont Vre. Excellence la verra cy-jointe.

Le Commis a fort ſouhaitté d'avoir la Lettre pour la rendre luymême, mais mon homme a tenu ferme à la rendre de ſa main propre & a repondu avec fermeté a quelques queſtions qu'il luy fit, pretendant devoir S'en retourner en Angleterre demain Matin.

A. 31.

Tranſlatirn of an Extract of a Letter from Mr. Crawford *to the Lord* Carteret, *Dated* Paris 25 July 1722. N. S.

THE *Wogans*, whom I have mentioned in my Letter of the 18th, are both called *Nicholas*, the one is the eldeſt Son of *Wogan* of *Rathcoffee* in *Ireland*, and the other is his Couſin, a younger Brother of *Charles Wogan*, who is with the Pretender at *Rome*. He of *Rathcoffee* was to command one of the Ships under *Morgan*, and the other was to be his Lieutenant. They have blabb'd a little on the Miſcarriage of their Project in *Spain*. They have owned, that as far as they knew of their Project, the late Duke of *Ormond* and ſome *Iriſh* Officers were to have landed with Arms in the *Weſt* of *England*, and that all Things were to be ready there for their Reception. They have no Advices yet of *Morgan*'s Arrival at *Morlaix*, but they expect an Account of it every Moment, and he is to come to *Paris*. The *Wogans* ſeem ſtill to believe, that they are to go ſoon for *England*. I have juſt now found out who Mr. *Digby* is, to whom the Letter, whereof your Excellency ſent a Copy to Sir *Luke Scaub*, was directed; would to God, that Mr. *Rogers* and his Friends in *England*, would be as eaſily and as ſafely diſcovered.

I folded up a Paper in the Form of a Letter, and ſealed it, and directed it to Mr. *Digby* at *Paris*, then wrapped it up in a Piece of waſte Paper, with a Memorandum in it, to be informed of Mr. *Waters*'s Banq^r. in *Chriſtine-Street*, at what Part of *Paris* Mr. *Digby* lived: I gave it thus made up, to a ſharp Boy, who ſpeaks both *French* and *Engliſh*, and ordered him to go booted, and a little dirted, to Mr. *Waters*'s, to open before him the Sham Letter, and to read his *Memorandum*, and to ſhew him the Direction of the Letter, and to deſire him, at the ſame Time, to ſend ſome Body with him to conduct him to the Place where it was to be delivered; That as ſoon as he ſhould come to the Door where he was to deliver it, he ſhould pretend to have left a Packet at Home, and making as if he would

A. 31.

go back to fetch that Packet, he ſhould ſlip away from the Perſon who led him thither. The Thing ſucceeded better than I expected, for *Waters* was not at Home, and my Man acted his Part ſo well, that *Waters*'s chief Book-Keeper, without giving himſelf the Trouble of going, wrote the Direction for him upon my Sham-Letter, in the Manner your Excellency will ſee in the Encloſed.

The Book-Keeper was very deſirous to have the Letter, in order to deliver it himſelf; but my Man inſiſted to deliver it with his own Hand, and anſwered boldly to ſome Queſtions which the Book-Keeper asked him, pretending he was to return the next Day for *England*.

A. 32.

Extract. d'une Lettre de Rome, 25 Juillet 1722.

ON m'aſſure que les Complices du dernier Complot de crainte que le Gouvernement ne leur faiſſe le procès font de très fortes inſtances en Eſpagne pourqu'on les ſoutienne à vive force. Les Adherents du Pretendant debitent depuis le depart de la Princeſſe Sobieski que le Pretendant partira dans peu de Rome.

A. 32.

Extract of a Letter from Rome, *Dated* 25 July 1722.

I Am aſſured, that the Accomplices in the laſt Conſpiracy, being apprehenſive that they ſhall be proſecuted by the Government, make the ſtrongeſt Inſtances in *Spain*, that they may be ſupported by open Force. The Adherents of the Pretender give out, ſince the Departure of the Princeſs *Sobieski*, that the Pretender will ſpeedily ſet out from *Rome*.

A. 33.

Extract d'une Lettre de *Rome*, 8 Aouſt 1722.

MARDI au Soir le Pretendant partit de Rome. Il a dit au Prelat envoyé par le Pape pour luy donner un bon Voyage, & pour demander quelle route il prendroit, qu'il alloit joindre ſon Epouſe a Lucca, apres quoy il iroit par Bologne à Urbino. La veritable raiſon de ſon Voyage, à ce qu' on aſſeure, eſt pour ſe derober aux yeux de ceux qui l' obſervent icy de prés, & pour pouvoir ſe faire embarquer dans quelque Port de la Mediterannée.

A. 33.

Extract of a Letter from Rome, *Dated* 8th Aug. 1722.

ON *Tueſday* Night the Pretender ſet out from *Rome*. He ſaid to the Prelate, who was ſent to him by the Pope to wiſh him a good Journey, and to ask what Route he would take, that he was going to meet his Spouſe at *Lucca*, after which, he would go to *Urbino*, by the Way of *Bologna*. The true Reaſon of his Journey, as it is affirmed, is, that he may withdraw himſelf from the Obſervation of thoſe who have a watchful Eye upon him here, and be in a Readineſs to embark in ſome Port of the *Mediterranean*.

Copy

A. 34.

Copy of Sir Anthony Weſcombe's *Letter to Lord* Carteret.

Bilboa, Auguſt 10. 1722. N. S.

My Lord,

I Could hardly believe it my ſelf, if it were not made ſo plain to me, and confirmed by many People, that it was poſſible to bring ſuch Numbers of Men from *Ireland* for the Pretender's Service, without being known, till they got as many as they thought fit. I gave your Lordſhip an Account from *Corunna* of about 450, and now I am to inform you, that many Hundreds more have landed in the Ports of *Biſcay* and *Aſturias*; I cannot get an exact Account of the Numbers, the People's Curioſity reaching no further than to mind the Men in the Lump, without taking Notice either of the Maſters, or Ships Names, there being no other than the Native *Spaniards* in thoſe Ports. But I can give your Lordſhip a pretty good Rule to gueſs at their Numbers, which is, that having made Two entire Batallions of *Sherlock*'s Regiment, there were ſome Hundreds remaining that were ordered to the *Iriſh* Regiments in the King of *Spain*'s Service; they threw down their Pay, and declared they would ſerve no other Prince than King *James*, for whom they were liſted in *Ireland*. I have ſpoke with ſome of them my ſelf, and they freely owned it; they are a kind of Priſoners, for fear they ſhould run away. One *Stapleton*, a *Roman* Catholick, is the Man that took Care of theſe Recruits, and debauches our Sailors to man their Ships under *Morgan*'s Directions. In my next your Lordſhip ſhall have the beſt Account I am able to give of theſe Ships. I am, *&c.*

A. 35.

A Letter from Sir Anthony Weſcombe *to Lord* Carteret.

Bilboa Auguſt 12th 1722. N. S.

My Lord,

I Can give your Lordſhip no other Reaſon why the Arms to be embark'd for the intended Deſign againſt *Britain* are not here ſtill, or at leaſt ſo hid that it is impoſſible to trace them, than that the *Pretender*'s Agents here (finding the Deſign fruſtrated and the Court of *Madrid* openly hindring the Execution of it, by the ſtrict Orders ſent to all the Ports to let no body embark, expreſſing the Duke of *Ormond* and ſeveral others,) had Reaſon to fear our Ambaſſador's Applications might obtain further Orders for the ſeizing the ſaid Arms where-ever found, and conſequently at the Time the late Duke of *Ormond* was ſtopt, they took care to convey them away, either to other obſcure Places and Ports on the Coaſt, of which there is a great Number, or on Board Ships at their Devotion. Mr. *Brown* the Merchant has a Country Houſe conveniently ſituated between this Place and the Sea, and there the Arms were lodged, both for the Conveniency of ſhipping them off, and likewiſe to avoid notice being taken by the People of this Town; for ſuch a Parcel of Arms could never be brought within the Town, without almoſt every body's Knowledge. I can get no other Account from People here, either of our Nation or *Spaniards*, of any further Particulars of theſe Arms, tho' they all agree that there was a Deſign formed, Arms to be imbark'd, and an Attempt to be made againſt *Britain*, and the Duke of *Ormond*, with *Iriſh* Officers to be their Leader. The *Fryers* themſelves brag of it. Your Lordſhip will be pleaſed to remember what I wrote you from the *Corunna*, *July* 13th N. S. of the Ship *Eſperanza*, and the Arms on board. I make no manner of doubt but all the Arms are ſent away, and hid in different Parcels to avoid diſcovery, and to have them within call, whenever they ſhall think fit to form another Attempt. On this Foot, ſhould here be a publick Perſon to demand it, or an Order ſent from the King of *Spain* to ſeize them, it would avail nothing by the Uncertainty of the Places where the ſaid Arms may be now lodged, and conſequently againſt the Priviledge of the Province that would never allow it, except one could lay his Hands upon them, no Search on Suſpicion being permitted in Caſes that do not immediately concern the Crown.

Before I finiſh this Letter, I cannot forbear telling your Lordſhip that it would be of little Uſe to deprive the Jacobites of theſe Arms, when they can have what Numbers they pleaſe from *England*; The Merchant-men that come to *Biſcay* have brought ſeveral Cheſts of Muſquets and other Fire Arms from *London*, to a conſiderable Quantity, for the Rebels and Jacobites in *Spain*; and among the reſt one *Roſe*, a Mate, brought not long ago two Cheſts of Muſquets made in *London*, and marked *J. R.* with a Crown over it; which half of this Town have ſeen. I am, *&c.*

From

A. 36.

From Sir Anthony Weſcombe *to Lord* Carteret.

Bilboa Auguſt 14th 1722. N. S.

THis ſhall give your Lordſhip an Account of the Ships that were to ſerve in the intended Attempt with the Duke of *Ormond* againſt *Britain* under *Morgan*'s Care, who generally goes by the Name of *Walton*.---The *Revolution* mounted with 40 Guns, and above 120 Men, with ſeveral Officers of Note on board, and commanded by one *Forbes*, Knight of the *Spaniſh* Orders, a *Scots* Man. The Lady *Mary*, Captain *Patrick Camell* or *Cambell*, mounted with 14 Guns, but capable of 26, with about 100 Men: Theſe two Ships came into *Santona* ſome time ago, but without ſtaying long went to another Port, and from thence to St. *Ander*, where at their coming in they gave out they would not tarry, and I believe they are ſailed by this time, by the Intelligence I have from thence, from a Gentleman of the Place; I herewith ſend your Lordſhip a Copy of part of his Letter.

Theſe two Ships, as well as a little one gone to *France* (of which I ſhall give you further Account,) came from *Cadiz*, where they have been a conſiderable time. They always come into Ports with *Engliſh* Colours. *Cambell*'s Ship and the little one came in firſt, and the *Revolution* follow'd them. It is ſaid there is another Ship left behind, of which I can give you no Particulars at all. Theſe Ships are manned with *Engliſh* Sailors by the Care of Agents, the Jacobites have in all the great Ports of *Spain*, with Money to debauch our Sailors from their Ships, and in Caſe they have no uſe for them themſelves, as it happens now (at leaſt for this Year,) then they turn them over to the King of *Spain*'s Ships.

It is not hard to gueſs at the Reaſon (tho' the *Spaniards* at *Santander* cannot,) of the ſudden Departure of theſe Ships; for finding the Deſign quaſht, and believing the Court of *Madrid* in earneſt, by the Orders they find in all the Ports of this Bay to let no Body embark, it is their ſafeſt Way to retire where they know they need not fear an Embargo. It will be a prety hard Matter to trace them in Order to have them ſtopt; for ſhifting Ports ſo often, an Order to one Government will not ſerve for another.

I am, &c.

The incloſed Extract.

Sant Andery Agoſto a 12. do 1722.

EL Navio grande ha del hazerte a la vela con el primer viento favorable; Dizen che ban al Eſtrecho; el Cabo et un Eſcotes Don Franciſco Forbes quien ha eſtado mucho tiempo en Catalun: Nuestro Governador le conoze as dize que en Carthagena corrico con las fabricas de unas fregats que el Sar Obiſpo de aquella Ciudad mando hazer para ir al Corſo contra los Moros: deſpues eſtubo en Sicilia General Major de la Armada Naval: deſpues corrio en Cataluna con la Direccion de la fabrica de unos Navios que fabrico alli Cambia, quien eſta aqui yha ydo averte abordo: El motivo de la Veni da doſtos Navios aca, es impenetrable a todos, ni ſe puedo diſcurrir qual ſea el de la buelta tan repentina.

A. 37.

Copy of Sir Anthony Weſtcombe *to Lord* Carteret.

Bilbao Auguſt the 15th 1722. N. S.

My Lord,

THE Ship *Lady Mary*, Captain *Patrick Campbell*, coming away from *Cadiz*, had a ſmall Ship in her Company, mounted with ſix Guns, but capable of fourteen, one *Hilton* Commander. The *Lady Mary* had on Board great Quantities of Arms for ſeveral thouſand Men. The little one came into *Santona* with her, unloaded ge at many Cask, and ſailed away for *Morlaix* in *France*. This Account is given by *Charles Dunegan*, who had been a Midſhip Man in one of the King's Ships attending on *Gibraltar*: He ſays he embarkt at *Cadiz* on Board the *Lady Mary* as an *Engliſh* Ship coming for *England*, but finding quite the contrary, he ran away from her at *Santona*, and came to *Bilbao*, where with much Difficulty, and by the Aſſiſtance of Mr. *Slinger*, got Leave and Bills of Health to embark for *England* on Board a

Spaniſh

Spaniſh Ship, named the St. *Jago*, Captain *Antonio del Barco*, and ſailed over the *Barr* the 3d of *Auguſt*, N. S. This Man is able to tell many Things if he be found.

This Country affording neither Wine, Oyl, nor any other Commodity liquid or ſolid in which Cask may be employ'd, I incline to believe with ſome Merchants here, that the Cask aforeſaid were fill'd up with Swords and other Warlike Implements. I am, &c.

A. 38.

Copy of a Letter from Sir Anthony Weſcombe *to Lord* Carteret.

Bilbao Auguſt the 16th 1722. N. S.

My Lord,

SOME Time before the blowing up of the Deſign againſt us, here came in from *London* in Ballaſt the *Phineas* Captain *William Arnold*, with one *Roger Nowell* (of *Whaley* in *Lancaſhire,*) as a Paſſenger, but it was ſoon known that the Captain was entirely to follow his Orders. It was ſomething new to the Merchants that a Ship ſhould come in Ballaſt and yet conſigned to no Body, nor being willing to take any Cargo: *Nowell* landed and was abſent twenty Days, during which Time, the Captain ſometimes was willing to take in Loading, ſometimes he would not, until *Nowell* came back, which happened to be after the Duke of *Ormond* was recalled to *Madrid* from his Journey hither; then they were willing to take Loading, which they had from *Slinger* and Company. The Order being come in the mean while to let No-body embark, *Nowell* had great Difficulty to get Leave to go back in the ſaid Ship. This Kind of Myſtery is thus explained to me here, that this Ship was ſent in Ballaſt to load Arms that were lodg'd in thoſe Parts to carry them to *Britain*, that *Nowell* went to *Madrid* to concert Meaſures, and receive Orders: But the Affair miſcarrying in the mean while, they thought fit to freight the Ship back to *England* with Goods from hence. *Nowell* at his coming back, pretended he had been only about the Country for his Pleaſure. I am, &c.

A. 39.

Copy of Sir Anthony Weſcombe's *Letter to Lord* Carteret.

Bilbao Auguſt the 16th 1722. N. S.

My Lord,

WHAT Numbers of Jacobites were here or on their Way before the Deſign was ſtopped, I am not able to acquaint your Lordſhip; (except ſome ofthe Duke of *Ormond*'s Domeſticks) there is none here, at leaſt no Perſon of Note, except a Brigadier, a Scotchman, and a Proteſtant, to whom the King of *Spain* gives a Penſion of 500 Dollars *per Annum*; He ſeldom appears: But none of the Merchants will tell me his Name, nor even *Slinger*; They ſay he goes by a counterfeit Name. If he be not *Mackintoſh* or *Campbell*, I am not able to gueſs who he ſhould be. There is no Town in *Spain* ſo convenient for the Jacobites and their Cauſe as this is; the great Liberty the Country enjoys, they having no publick Perſon from *Britain*, and the great Number of *Iriſh* Papiſts dwelling here, are very great Encouragements to the Jacobites to lay their Deſigns this Way. This Town, tho' not big, is very populous, and one Half are *Iriſh* Papiſts. The few *Engliſh* Merchants that live here, are cowed and ſtand in Awe of them to a Degree that's ridiculous; as I ſhall inform your Lordſhip, when I have the Honour to ſee you. I am, &c.

I have now learnt that the Brigadier's Name mentioned above, is Campbell.

A. 40.

Extract of a Letter from Sir Anthony Weſcombe *to Lord* Carteret.

Bilbao Auguſt the 21ſt 1722. N. S.

I Have learnt nothing material ſince, ſave only that the Ships under *Morgan* have a greater Number on Board them than I was at firſt informed; the *Revolution* having above 18, and the other more than 100, and that they lay in the Bay of *Cadiz* for near eight Months.

Forbes the Commandant, is called both by *Spaniſh* and *Iriſh*, *Fordes*. *Morgan*, alias *Walton* is on Board, and has the Direction like an Intendant.

A. 41.

Extrait d'une Lettre de la *Hague* 28$^{me.}$ Aouſt 1722. N. S.

J'ai vû une Lettre de Rome *d'aſſés bonne main qui porte que non obſtant la decouverte de la Conſpiration en* Angletterre, *le Pretendant continue à y fomenter ſon Parti, et qu'il ne deſiſte Point de ſon deſſein d'y retourner. Il eſt parti le* 4$^{me.}$ *du Courant prenant la route de la* Toſcane; *luy même a dit, au Prelat que le Pape luy envoya pour luy ſouhaiter un bon Voyage, qu'il alloit à* Lucques *y rejoindre ſon Epouſe. apres quoy il vouloit aller par* Bologne *à* Urbino, *pour y ſejourner quelque tems; D'autres diſoient, qu'il ſe croyoit obſervé de trop prés à* Rome *par les Emiſſaires de la* Grande Bretagne, *que pour ſe derober à ces Obſervateurs, il vouloit s'aller promener par l'* Italie, *& ſe cacher à leur vüe, & animer cependant ſes Adherents en* Angleterre *pour faire quelque Effort en ſa Faveur; en quel cas il paſſeroit par la* France, *ou s'embarqueroit ſecrettement ſur quelque Vaiſſeau, pour paſſer en* Angleterre; *celuy qui avoit ecrit cette Lettre ajoutoit qu'on ne pouvoit point doubter qu'il ne ſe tramoit encore quelque Intrigue en Faveur du Pretendant.*

We certify that this is a true Extract of a Letter which was received from a Perſon of great Diſtinction at the *Hague*.

TOWNSHEND.
CARTERET.

A. 41.

Tranſlation of an Extract of a Letter from the Hague *of the* 28*th of* Auguſt 1722. N. S.

I Have ſeen a Letter from *Rome*, from a pretty good Hand, which ſays that notwithſtanding the Diſcovery of the Conſpiracy in *England*, the Pretender continues to foment his Party there, and that he has not quitted his Deſign of returning thither: He ſet out the 4th Inſtant on the Road towards *Tuſcany*. He himſelf told the Prelate whom the Pope ſent to him to wiſh him a good Journey, that he was going to *Lucca* to his Spouſe, after which he would go by the Way of *Bologna* to *Urbino*, where he would make ſome Stay. Others ſaid he thought himſelf too narrowly watch'd at *Rome* by Emiſſaries from *Great Britain*, and that in Order to ſteal away from thoſe Obſervers, he would make a Progreſs thro' *Italy*, and conceal himſelf from their Sight, and in the mean Time animate his Adherents in *England* to make ſome Effort in his Favour, in which Caſe he would paſs thro' *France*, and embark privately on Board ſome Ship or other to paſs over to *England*. He that wrote this Letter added, that there was undoubtedly ſome Intrigue ſtill carrying on in Favour of the Pretender.

Extract of Mr. Stanhope's *Letter to the Lord* Carteret.

Madrid, Auguſt 2[illegible] 1722. N. S.

. . . . . Says, that the *Scotch* have engaged to bring 22,000 Men into the Field in ten Days Time, in caſe the late Duke of *Ormond* would come over to them with Arms, and put himſelf at their Head; That the moſt preſſing Meſſages are daily ſent from them to the ſaid Duke, who is as yet unreſolved, but diſpatched to them Yeſterday Mr. *Fergusſon* by the Way of *France*, who will be followed upon the 5th of the next Month by Mr. *Keith*, Brother to Lord Mariſchal, in order to be exactly informed as to what he may ſurely depend on at his Arrival there, and upon their Report, promiſes to declare his Reſolution. Theſe Two Perſons are the ſame that went to *Scotland* to prepare Matters in the Year 1719, a little before the *Spaniſh* Expedition to that Country. They go directly from [illegible] *Rouen*, where one *Arbuthnot* is to provide an Imbarkation for the carrying them to *Scotland*, to which Place they are ſoon to be followed by Brigadier *Campbell*, formerly in the *Czar*'s Service.

A. 43.

Extract of Sir Anthony Weſcombe's *Letter to Lord* Carteret.

Corunna, September 7, 1722. N. S.

THE Subject of this is a vehement Suſpicion I have that the *Jacobites* Deſign, though at preſent diſappointed here, to take a new Life and ſpring up ſomewhere elſe; for many People here have News, that the Pretender had left *Rome* and the Inland Parts of *Italy*, to come to the Sea-ſide and embark; to which if your Lordſhip will add my former Account in a Letter of mine to Mr. *Stanhope* from *Bilbao*, dated *Auguſt* 23*d*, that the Officers themſelves of the Ship *Revolution* had declared they were going to the Streights, it will appear pretty probable, that the ſaid Pretender is to embark on Board this Ship, and what makes it, I think, more ſo is (beſides its being a Ship of Force, and about Two Hundred Sailors on Board, beſides a conſiderable Number of Officers) the great Hurry the ſaid Ship was in to be gone from the firſt Moment ſhe came into the firſt Port. For the Fear of an Embargo would ſcarcely hurry her away in that Manner.

A. 44.

Extract of a Letter from Captain Scott *to Mr.* Burchett, *Dated on Board the* Dragon *in the* Mole *of* Genoa, *the* 27*th of* November, 1722. O. S.

IN purſuance of their Lordſhip's Orders, I ſailed from *Gibralter* the 31*ſt* of laſt Month, in queſt of the *Revolution* and the other Ships, and on my Arrival upon the Coaſt of *Genoa*, believing *Porto Specia* to be a likely Place for them to harbour in, I ſent Captain *Steuart* thither with Orders to ſeize any of them that he ſhould find there, and my Lord *Vere* to *Leghorn*, to gain Intelligence concerning them, for I thought it not improbable that they might be at *Port Longone*. I proceeded my ſelf with the *Leopard* for *Genoa*, where I arrived the next Day in the Afternoon, being the 22d Inſtant, and having diſcovered that the *Revolution* lay in the inner Mole, but ſo ſurrounded with Ships, that I could not come to Anchor near to her, I went to the *Pratick-Houſe* my ſelf, under pretence of getting Pratick, but with a Deſign of ſending to the Envoy, or Conſul, to come thither to me, that I might receive from them what Information I could concerning that Ship. And Mr. *Davenant* having informed me that *Monroe*, her Captain, lay A-ſhore dangerouſly ill of ſome Wounds he had lately received, and that *Gardiner*, *Fordes*, and one *French*, *Gardiner*'s Clerk, lodg'd in the ſame Houſe with him; the Gates being upon ſhutting, I had juſt Time to give him a ſhort Verbal Account of the Orders I had received, ſignifying his Majeſty's Pleaſure, that I ſhould ſeize that Ship, and as I thought any Delay might be

be of bad Conſequence, I acquainted him that as ſoon as I could get on Board my Ship, I would go about the ſeizing of her, and that he might depend upon her being in my Poſſeſſion in half an Hour's Time; and therefore that the Perſons before-mentioned might not have an Opportunity of making their Eſcape, when they ſhould hear that the Ship was ſeized, I deſired that as ſoon as the Gates ſhould be ſhut, he would go to the Doge, and make a Demand in his Majeſty's Name, that they and their Papers might be immediately ſecured: The King my Maſter having received certain Information of their being Traitors and Rebels, and given Orders that they ſhould be demanded from the Government of any Place where they might happen to be.

As the Ship was ſeized without the leaſt Noiſe or Diſturbance in the Port, the Government was much ſurprized when they heard of it the next Day; but I have Reaſon to believe, that if I had waited for their Conſent, they would have pleaded the Laws of their *Porto Franco* againſt my doing it at all, as they have done ſince, againſt their giving up the Perſons whom I demanded.

The Doge having given Mr. *Davenant* for Anſwer, that it was not in his Power to comply with his Demand, without the Conſent of the Senate and Grand Council, which he would call the next Morning, and then acquaint him with their Reſolutions: But it having been notified to him, that the Senate had not come to any Determination, I that Afternoon renewed the ſaid Demand in the ſtrongeſt and moſt preſſing Terms, and likewiſe demanded the Sails and Powder belonging to the *Revolution* which had been carried A-ſhore, for ſhe was deſigned to have been careen'd and refitted. To both which Demands (after ſeveral Councils held about them) the Secretary came and gave me an Anſwer to this Purpoſe; That he was ſent to aſſure me in the Name of the Republick, that they would on all Occaſions ſhew their Readineſs to obey his *Britannick* Majeſty's Commands, and that he was impowered by his Serenity and their Excellencies, to make the following Anſwers to the Two Heads of my Demands.

1. That the Republick had given their Conſent that the Sails and Powder ſhould be delivered according to my Deſire.

2. That as to the Perſons demanded as Traitors and Rebels, it being an Affair which required great Conſideration, they had not as yet taken any final Reſolution; and that it was apprehended it would meet with many Difficulties, it being a Cuſtom obſerved by all Nations, to afford Refuge to People that fly into their Arms; that it was very well known, that Rebels to the Crown of *England*, were harboured in *France*, and Rebels againſt *France* harbour'd in *England*, and Rebels to both protected in *Spain*; and that though this Republick harboured the *Catalans*, who were Rebels againſt the Crown of *Spain*, and others that were known to have been in actual and open Rebellion againſt the Emperour and other Princes of *Europe*, no Demands of this Nature were ever made upon them, and that there was no Example of any Man's having been ever given up.

That the Laws of Nations and Hoſpitality, and eſpecially the Particular Laws of their *Porto Franco*, would not allow them to act otherwiſe than they have always done on the like Occaſions. Beſides, as to *Fordes*, that he was actually a General Officer in the King of *Spain*'s Service, and had the Honour of being Knight of the Order of St. *Jago*, and that on theſe Accounts, it would be the more difficult for them to grant the Demand made by Mr. *Davenant* and me.

However he concluded with ſaying, That this was not a final Anſwer, but only an Account of ſuch Reflections and Reaſonings as had been uſed by ſome of his Superiours while they were aſſembled in Senate, and that whenever he ſhould receive their final Anſwer, he would come and acquaint me with it.

To what he ſaid concerning *Fordes*, I replied, That he was born a Subject of the King of *Great-Britain*, and had forfeited all the Protection that he might have expected from his Catholick Majeſty, by having now engaged himſelf with ſeveral *Britiſh* Subjects in a Conſpiracy againſt the King my Maſter. But whatever might be ſaid in the Caſe of *Fordes*, there could be nothing alledged for protecting the others who (it is undeniable) are *Britiſh* Subjects and Rebels, and cannot be ſaid to have fled into the Arms of the ſerene Republick, ſeeing the Ship, to which they belonged, was in their Port and refitting, and arming under *Engliſh* Colours.

I have not had any Anſwer from the Secretary ſince, but I juſt now hear, that *Fordes* is retired to the *Spaniſh* Miniſter's-Houſe, and *Gardiner*, *Monroe*, and *French*, to a Dominican Convent.

I think it proper to acquaint you, that when our Ships were ſeen in the *Offin*, a Meſſenger came to ſpeak with *Gardiner* at the Conſuls, where he was at Dinner, and that immediately he took his Sword and Hat, ſaying, he would return again in a little Time, and as I have ſince been certainly informed, he went directly on Board, where

he

he was for ſome Time with *French* in his Cabbin, and that upon notice of our Ships entering within the Mole, he was in a hurry to be gone, leaving a great Heap of Papers with his Servant, of which he burnt ſeveral in the Steerage, and the reſt in the Fore-caſtle. As it is not to be doubted but that the Papers, which could have given the greateſt Inſight into his Deſigns and Practices, were then deſtroyed, yet there are among thoſe which remain, ſeveral that I am perſwaded will induce any one to believe that he was engaged in the Service of the Pretender. It alſo appears by them, that *Gardiner*'s true Name is *Galloway*, and that one *Morgan* has been the principal Agent for the Ships, *Revolution*, and *Lady-Mary*. This *Morgan* had a Son of about 20 Years of Age on Board the *Revolution*, who went by the Name of *Walter*, as he ſays, by the Direction of his Father, but has now confeſſed, that his right Name is *Morgan*. There are ſeveral Letters of the Father's, moſt of them inſigned, but the Hand is eaſily known to be his, by comparing them with thoſe that are ſigned by him.

A. 45.

A Letter from Captain Gardiner *to Lord* Carteret.

Dated Genoa December 8th 1722. N. S.

My Lord,

I Muſt beg leave to treſpaſs upon a few of your Lordſhips Minutes, to complain of Commadore *Scot*'s having ſeized upon my Ship and Papers in this Port the 3d Inſtant, taking all the Crew on Board His Majeſty's Ship which he commands, and ſending ſome of his People to keep Poſſeſſion of mine, without allowing me the Attendance of my Servant, Linen or wearing Apparel, tho' I intreated the Favour of him in the moſt civil Manner. Nay, he refuſes to let the Surgeon to come to dreſs the Maſter of the Ship, lying dangerouſly ill on Shoar of Wounds he had a few Days before received in attempting to quell a Mutiny on board of an *Engliſh* Ship here.

I cannot help thinking this very hard Uſage, without being able by my Application to His Majeſty's Envoy, to the Conſul, and to the Commadore, even to diſcover what was alledged againſt me, and I defy the World to prove that any one Action or Conduct of mine, ever gave the leaſt Room for ſuch a Proceeding.

The Loſs I may have ſuſtained by this violent Treatment, in regard to my Credit and Reputation, is far greater than I can be eaſily made amends for: Yet ſtill I am more ſenſibly touched by the Rumour that ſpreads of my being ſo unfortunate as to fall under the Suſpicion and Diſpleaſure of a Government, for which I had always retained as much Reſpect and Veneration as cou'd be poſſibly expected from the moſt dutiful and loyal Subject.

I moſt humbly intreat your Lordſhip's Patience whilſt I lay before you in as Brief a manner as poſſible, all the Steps I had taken ſince my coming from *England*, to this Time.

If your Lordſhip will be pleaſed to recollect, you may remember I had the Honour to tell you on occaſion of my Ships being ſtopt in the River of *Thames* (which by the By, I'll preſume to ſay was the Source of all the ill Notions ſince conceived of me,) that I intended for *Morlaix* in *Brittany*, and from thence to *Cadiz*, in order to take in a Loading of Linen at the one Place for the other; But upon my arrival at *Morlaix*, I found *French* Linen would by no means be received in *Spain*, and when I came to *Cadiz*, I found the Galleons all laden and ready to ſail, as they did in a Day or two after; which diſappointed me of the Permiſſion I hoped for to be employed as one of that Fleet for the *Weſt-Indies*.

What befell me next was the Receipt of Letters from *Sweden*, reviving a Project of Commerce formed there ſome time before, which I readily gave into, thinking it the moſt beneficial Voyage I cou'd go upon, after all former Diſappointments, and accordingly I agreed to wait the Arrival of two Frigates His *Swediſh* Majeſty had ordered to joyn this unfortunate Ship for that Purpoſe.

Theſe two Frigates being arrived at *Cadiz*, where I ſtaid for them, the Captains brought Letters of Credit upon their Conſul for what they ſhould have occaſion for; but he failing to ſupply them, they were forced to engage a Parcel of about two Thouſand ſmall Arms, and a hundred Kentals of Cannon Powder (which they brought for Traffick on the Coaſt of *Brazil* and *Madagaſcar*) to a Merchant at St. *Andere*, who agreed to advance ten thouſand Dollars upon the ſaid Arms and Powder on condition they might

be put into his Poſſeſſion there; and accordingly they were put on Board a Ship called the *Lady Mary*, who delivered them to the Merchant at St. *Andere* that advanced the Money upon them, and they remain with him for any thing I know to this Day.

The *Sweden* being thus ſupplied, all neceſſary Preparations were made for the Voyage, and we ſhould have proceeded upon it, had not ſome Diſputes aroſe between the *Swediſh* Officers about Command, which took up ſo much time as to loſe the Seaſon, and made too wide a Breach among themſelves to be cloſed up abroad, wherefore they returned Home, promiſing on their Arrival to communicate His Majeſty's further Pleaſure concerning the Enterprize, and to ſend me ſome Supplies to defray my Expence, which they deſired I ſhould wait for, and did ſo, as long as I could well ſupport my ſelf.

But being in this alſo diſappointed, I agreed to diſpoſe of my Ship to one Mr. *Fardyce* a Major-General in the King of *Spain*'s Sea-Service, who thinking her very fit to cruize upon the *Turks*, according to Commiſſions he had obtained from the King his Maſter for that purpoſe, offered me ſo good a Price for her, as I thought I ſhould not refuſe, knowing I could get a better Ship for the Money, whenever His *Swediſh* Majeſty ſhould think fit to purſue His aforeſaid Deſign.

Now Mr. *Fardyce* having ſome Affairs relating to this intended Expedition to ſettle with one Mr. *Comby* who was building Men of War for the King of *Spain* at St *Andere*, and who likewiſe had given me Hopes for obtaining me a Permiſſion for a Ship to go to the *Spaniſh Weſt-Indies*, I was the more eaſily prevailed with by the ſaid *Fardyce* to go to St. *Andere*, where I ſtayed fifteen Days. From thence in my Way hither I touch'd at *Alicant*, where I was obliged to Twenty four Days Quarantine, becauſe Mr. *Fardyce* forgot taking particular Bills of Health for himſelf, and I was at laſt allowed Prattick by a poſitive Order from the King of *Spain*, which Mr. *Fardyce* had ſollicited by Letters to that Court.

Then taking in what Goods I could get upon Freight for this Place, I came hither, where I conſigned the Ship to Mr. *Henſhaw* the Conſul, and told him, (what I made no ſecret of to any Body) that I only ſtaid for the Remainder of the Money I was to receive for my Ship from Mr. *Fardyce*, to deliver her up to him, and pay off and diſcharge the Crew before the Conſul, reſolving for my own Part to make the beſt of my Way by Land to *London*.

This, my Lord, is ſo true a State of the whole Affair, that I dare appeal for the Truth of it to the Courts of *Sweden* and *Spain*; and I hope the Neceſſity I lye under of clearing my ſelf will excuſe me to your Lordſhip for being ſo tedious and particular. And I here ſolemnly aver, that if I were upon my Examination before the Lords of his Majeſty's moſt Honourable Privy-Council, I could not add a Tittle to the Diſcovery I hereby plainly make to your Lordſhip.

My Lord, the Diſappointment of every Voyage I honeſtly reſolved upon, for the Advancement of my Fortune, was mortifying enough, without the Addition of this laſt moſt ſevere Stroke of Ill-Fortune, and I am ſure ſome falſe and ſcandalous Information or other muſt have brought it upon me, being ſo unhappy as to have to do with one *Morgan* in the *Swediſh* Affair, who I hear is render'd obnoxious to the Government, to which, and to that ſmall Quantity of Arms and Powder deſigned for no other Uſe, than what I have before mentioned, I attribute the Foundation of all the Trouble now given me. But I will take the Liberty to aſſure your Lordſhip, that if *Morgan* was really an Incendiary or an Enemy to the Government, he ever concealed it from one, whom he knows to be otherwiſe inclined.

I never ſaw the Pretender in my Life, nor the late Duke of *Ormond* ſince he left *England*, neither did I correſpond directly or indirectly with them, or any of their Adherents either at Home or Abroad; for in the whole Courſe of my Life I maintained it as a fixed Principle not to meddle in, or concern my ſelf with the Government, further than to be obedient to any Form of it, that ſhould be ſetled by the Laws of my Country. My Education I knew did not at all qualifie me for a Stateſman, and I thought the Affection I ſhew'd on all Occaſions for the preſent happy Eſtabliſhment was my Duty. That my Allegiance was entirely bent that Way, my whole Life and Converſation will prove. And particularly for the Time I remain'd in *Gadiz*, (which unhappily gives Occaſion for the preſent Suſpicion of me) I may venture to appeal to Mr *Black* the Conſul, and all the Captains of Men of War there in my Time, (who were not a few) whether I did not always appear zealous for His preſent Majeſty, whom God preſerve

If by Chance I fell into any Jacobite Company (which I endeavoured as much as poſſible to avoid) we ſeldom parted good Friends, of which I could give Inſtances, were they not too trifling for your Lordſhip's Ear.

But 'tis my great Misfortune to want Friends, tho' had I my Choice of Patrons, I ſhould more readily throw my Self upon your Lordſhip's Protection than any others; having already experienced your Candour and Impartiality; neither ſhould I at this Time heſitate in the leaſt upon putting my Self in Commodore *Scott*'s Power, but that I would not be carried Home Priſoner, like a Malefactor or Pirate. Had I received the leaſt Command from your Lordſhip, in any Part of the World to appear before you, I ſhould very readily obey it, being fully aſſured of my own Innocence.

To conclude, my Lord, as all the Papers I had in the World were ſurpriſed from me, and are now in Commodore *Scott*'s Poſſeſſion; I humbly hope your Lordſhip will give Orders to examine them here, before the Envoy and Conſul, and if I am found clear of any Guilt, that my Ship may be reſtored to me, with what Reparation can be made me for the Injury I ſuſtained. Otherwiſe if I can be juſtly impeached of any Crimes, I ſhall moſt willingly ſubmit to the ſevereſt Puniſhment of the Law, for if there be any, I am ſure they are fully contained in this Letter, which if your Lordſhip ſhould think fit to publiſh, with an Offer of Reward to any one for diſproving it, or fairly making out any Thing againſt me, that it does not contain, I ſhall likewiſe ſubmit to any Puniſhment.

I'll detain your Lordſhip no longer than to aſſure you, that I am with all imaginable Deference and profound Reſpect,

My Lord,

Your Lordſhip's Moſt Obedient

and Moſt Faithful Humble Servant,

Andrew Gardiner.

My Lord, I ſent a Duplicate hereof to be incloſed in the Conſul's Packet, but having no Reaſon to expect Favour or common Juſtice from any one here, I preſume to ſend this by Poſt.

A A.

PAPERS

RELATING TO

Captain *HALSTEAD.*

A A.

List of Papers relating to Captain Halstead.

1. Deposition of *Luke Stokoe*. 1722, *Decemb.* 27. Page 3
2. Letter from *Wilmore* to *Stokoe*. 172$\frac{1}{2}$, *March* 1. ibid.
3. Letter from *Wilmore* to *Stokoe*. *May* 14. ibid.
4. Letter from ——— to *Dumville*. 1722, *April* 27. ibid.
5. Enclosing one from *O* — to *L.* of the same Date. p. 4
6. Letter from ——— to *Dodsworth*. 1722, *April* 23. 4 *May*, *N. S.* ibid.
7. Examination of *William Arnold*. *August* 3. p. 5
8. Examination of *William Highier*. *Aug.* 6. ibid.
9. Examination of *Samuel Mayo*. *Aug.* 6. p. 6
10. Further Examination of *Samuel Mayo*, and *William Highier*. *Aug.* 7. p. 7
11. Examination of *William Arnold*. *Aug.* 7. ibid.
12. Examitation of Captain *Charles Halstead*. *Aug.* 7. p. 8
13. Examination of Captain *Charles Halstead*. *Aug.* 13. ibid.

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14. Deposition of *Thomas Carter*. 172$\frac{2}{3}$, *Feb.* 5. p. 9
15. Account given by *Thomas Carter*. *Feb.* 7. p. 10
16. Deposition of *John Alison*. *Feb.* 11. ibid.

The DEPOSITION *of* Luke Stokoe, *of the Pariſh of St.* Martin *in the* Fields, *in the County of* Middleſex, *Bookſeller:*

WHO ſays, that about the End of *February* laſt, a Perſon to this Deponent unknown, came to his Shop, called for Pen, Ink and Paper, and wrote a Letter, which he ſent by a Porter to the Poſt-Houſe; the Direction of it the Deponent did not ſee; nor does he remember whether the Letter was ſent to a Houſe where the General-Poſt Letters are received, or to one where Penny-Poſt Letters are taken in: And the ſaid Perſon told the Deponent his Name was *Wilmore*, and deſired if any Letters came for him directed to this Deponent's, that he would take them in. That about two or three Days after, the Deponent received a Letter ſign'd *Wilmore*, dated from *Epſom*, renewing the ſame Requeſt. That about three Weeks after a Letter charged Ten-pence came directed to *Wilmore*, which the Deponent took in, and about two Days after (the Deponent being then abſent) it was fetch'd away, as he was told, by a Porter, who repaid the Poſtage. That about the End of *April* another Letter came, directed as before to *Wilmore*, which was taken in by the Deponent's Wife or Servant in his Abſence, alſo charged Ten-pence; and this Letter, as he has been inform'd, was alſo fetch'd away in his Abſence by an old Woman, and the Poſtage repaid. That in *May* laſt the Deponent receiv'd a ſecond Letter from *Wilmore*, as he ſign'd his Name, dated from *Harwich*, directing the Deponent not to take in any more Letters for him, becauſe he was going to *Holland*.

Jurat 27mo die Decembris 1722. *Luke Stokoe.*

Coram me

Cha. Delafaye.

A A. 2.

Epſom, March 1mo 1721-2.

J. Wilmore to Mr. *Stokoe.*

Mr. *Stokoe*,

I Have ordered ſome *French* Letters to be directed for me at your Houſe; pray receive them, and a Porter ſhall from time to time call for them. And you will oblige

Your Servant to Command,

J. Wilmore.

A A. 3.

Harwich, the 14th of *May*.

J. Wilmore to Mr. *Luke Stokoe.*

Mr. *Stokoe*,

THIS goes to Town by a Gentleman who will deliver it to you, and it is to tell you, that as I am going to *Holland*, you need pay for no more Letters that ſhould come for me. I thank you for your paſt Care, and am

Your Servant to Command,

J. Wilmore.

A A. 4.

To Mr. Dumville *an Attorney, incloſed in a Letter directed to Mr.* Thomas Wilmore, *at Mr.* Stokoe's, *a Bookſeller at* Charing-Croſs.

April 27.

I Received yours of the 26 and 29 *March*. My Uncle *Tim* has heard from Mrs. *Maſon* from *Orleans*, tho' not fully. She was then on the Road to *Paris*, and I have not heard of her Arrival there. On the other ſide is a Copy of *O* . . . . 's Anſwer to *L* . . . . which I ſend to you, it being in ſome meaſure an Anſwer to yours, and it is alſo neceſſary

ceſſary you ſhould know *O*. . . . 's Opinion, to prevent any Miſtakes that might otherwiſe happen. Letters came here from *Bilboa* . . and even from *B* . . . . . that a Ship came to *Bilboa* . . with an Expreſs to *O* . . . . . in order to bring *O* . . . . . to *England*, that the Expreſs came to . . . . . where *O* . . . . . is. This has made ſo much Noiſe, that it is neceſſary to ſend to *England* with all poſſible Diſpatch. A Ship's coming with Ballaſt only gave occaſion to thoſe Reports, and in order to ſtifle them, it is neceſſary to put in the Ship Goods for *England*. This will be a conſiderable Expence to *Tom*, and he hopes that Friends will conſider it, and ſend him if poſſible even a greater Supply than the five thouſand Pounds that he wrote for in his of the 6th and 20th of *April*. The Bills, *&c.* muſt be ſent directly to *B* . . . . . They may be bought on the *Exchange* of *London*. Since Mrs. *Chaumont* cannot meet *O* . . . . . at *M* . . . . . or at any other Place on the Road, it is abſolutely neceſſary that *O* . . . . . ſhould have as good a Preparation of Arms, *&c.* as can be had here, and in order to make it, he will want more Money from Friends. I have this Day received a Letter from *C* . . . . . that *M* . . . . . could get more Arms if he had more Money, and *O* . . . . . hopes that *Onſlow* or *Hawley* will ſend a part of the Money they have received directly to *O* . . . . . for *O* . . . . . has upon the Hopes of it ſent Credit to *M* . . . . . Pray mind this, and do not loſe a Moment. I am

Your very humble Servant to Command.

AA. 5.

A Copy of O. . . . . *s' Letter to* L. . . . . *incloſed in the Letter to* Domville, April 27.

I Received yours of the 26th *March* and 3d of *April* by the laſt Poſt, and at the ſame time a Letter from *D* . . . . . with an Account that he had procured Ten thouſand Arms. I did not expect that *D* . . . . . had any Arms, but that he chiefly depended on what *M* . . . . . had. Pray tell Mrs. *Chaumont* that it is my Opinion we ſhould join Stocks with *D* . . . . . for we cannot have too many Arms. I hope you went to the *N* . . . . . of *P* . . . . . upon that Errand, and I wonder you did not in yours to me ſpecify your Errand; for conſidering the diſtance you are at from *O* . . . . . it is neceſſary to give *O* . . . . . the moſt particular Information you can. As to *M* . . . . . I can only depend on Two thouſand Arms from him. I could have had more Arms if I had more Money. I have ordered *H* . . . . . 's Ship, that I depended on, to return to *England*. It was not proper to make uſe of it for Reaſons not neceſſary to trouble you with. There was no Meſſage ſent by him, becauſe of the Uncertainty of the time of his getting to *England*. I have ordered *M* . . . . 's Ship to come to *A* . . . . Pray tell Mrs. *Chaumont* that ſince the Parliament is dead and gone, that I think it is a good Time to make an Effort when the Elector of *Hannover* is gone to *Hannover*. I hope you have agreed with *D* . . . . . the time of going for *England*, and when that is fixed between Mrs. *Chaumont* and *D* . . . . . you will let *O* . . . . . know the Place of Landing in *England*. *D* . . . . . you know is deſigning to go to *S* . . . . . , I deſire that an Expreſs may be ſent to me with particular Accounts of what is agreed on. Before I received yours, I was of the ſame Opinion with you concerning *M* . . . . . and for the ſame Reaſons.

AA. 6.

23. *April O. S.*
4. *May N. S.*

Anonymous Letter of May *the* 4*th*, 1722. *to Mr.* Dodſworth, *incloſed in a Letter to Mr.* Wilmore, *at Mr.* Stokoe's *at* Charing-Croſs, London.

I Received yours of the 2d of *April*, and at the ſame time Mrs. *Noville* had one of the 5th from *Franklin* with a Poſtſcript from you. The greateſt part of your Letter, tho' a ſhort one, is a Riddle. You ſay that Mrs. *Chaumont* doth not ſeem in any degree to be in good Circumſtances, and you refer to Mrs. *Maſon*'s Accounts; you ſay, perhaps ſomething of more weight may be tranſmitted by next Poſt; you ſay, you are told that *Lee* is an arrant Villain, and the detail of this is ſent to *Tom* another Way, and that you count more upon old *Field*'s Scheme of Trade than any other.

In my laſt, I deſired you to write fully and particularly, and you'll be convinced of the abſolute Neceſſity of doing ſo, when I aſſure you that the dark Hints you give are not underſtood, that *Maſon*'s Accounts, nor the Detail of *Lee*'s Affairs are not yet received,

ceived, that your bare Hint of *Lee* is the only Notice my Aunt has of it, that old *Field*'s Scheme of Trade is not at all underſtood here, neither what it is, nor whether it be an Old or a New one; if it be in relation to Mrs. *Villars*, That is as I underſtand by your former Letters a ſubſequent one to *Mary*'s; if to Mrs. *Burton*, 'tis a previous one to Mrs. *Kenrick*. You cloſe your Letter by wiſhing that my Aunt were in *Racine*'s Neighbourhood, when you have been told in twenty Letters, that it was impoſſible to effect it for Reaſons not neceſſary to be repeated. I muſt again intreat you to write at large, without referring to Accounts which perhaps will never arrive, and to give my Aunt the moſt minute Information of the Particulars of her Eſtate that you are able.

Maſon's laſt was of the 3d of *April* from *Lyons*. In that he promiſed to write by every Poſt, and to ſend my Aunt a Copy of Mrs. *Chaumont*'s to Mrs. *Burridge*, which Copy is not yet come to Hand, and is I ſuppoſe that Account of her Circumſtances which you refer to. I am ſurprized that the Letters from *Racine* of the 20th of *April* don't make mention of *Maſon*; for he was near *Gizors* the 7th of *April*, as Mrs. *Chaumont* writes, and ſhe in that complains of *Maſon*'s Slowneſs, tho' in every other reſpect ſhe was extremely pleaſed with him. I fear *Maſon* has fallen ſick, or that ſome other Accident has happened to him, and I ſhan't be eaſy until the arrival of the next Poſt. *Griffith* brought a Power to draw for 3000 *Livres Tournois*, which accordingly is done, and my Aunt hopes that due Honour will be given to her Bills.

I muſt again intreat you to uſe your utmoſt Endeavours to get the five thouſand Pounds fromed Friends return to *O*.... directly. The Hopes given by *F* *g*..... to expect a great Sum, and by *N*. that he had raiſed twenty thouſand Pounds, induced *O*..... to ſupply *M*.... and to make other neceſſary Proviſions. If that Money be not returned, it will fall heavy upon *O*... and he will be diſabled from anſwering the Expectations of Friends, therefore ought to be your firſt and greateſt Care. All other Actions are Trifles in Compariſon of it; for the Hopes of Succeſs principally depend on *O*.... I mentioned this in former Letters, and Friends are deſired to return more than five thouſand Pounds if poſſible, if they do, more Arms, and Ammunition, and Officers can be had here, and the end of raiſing Money by Friends is to procure Arms, Ammunition, and Officers.

I pray inform me whether Mrs. *Bramſtone* has taken a new Leaſe ſince *Griffith* left *Huetr*: if ſhe has, at what yearly Rent. *Tom* will write by next Poſt, he has not leiſure to do it by this, he deſires you to remember him to Mr. *Burridge*, Mrs. *Fowler*, and other Friends. I am,

Dear Sir, *Yours*.

May 4th, 1722.

A A. 7.

The Examination of William Arnold, *Maſter of the Ship* Phineas *of* Briſtol;

3 *Aug.* 1722.

WHO ſays, that he ſailed from *Graveſend* the 12th of *March* laſt, being hired by one *Roger Nowell* a Merchant to carry him to *Bilboa*; that he carried no Freight. That he carried no other Paſſenger; that he arrived at *Bilboa* the 25th of *March*; that he ſaw no *Engliſh* or *Scots* but our Merchants at *Bilboa*; that he took it, that the ſaid *Nowell* went thither to buy Iron and Wooll, but the ſaid *Nowell* having been in the Country, at his return told the Examinant thoſe Goods were at too high a Price, and he ſhould therefore take a Freight and return Home, which the Examinant did accordingly, and coming away at the End of *June*, arrived here the 12th of *July* laſt.

A A. 8.

The Examination of William Highier, *lodging at Mr.* Bedford's, *at the Sign of the* three Sheds *and* Torbay *near* Elephant-Stairs, *in* Rotherith, *Mariner*;

WHO ſays, that the laſt Voyage he performed at Sea was on Board the *Phineas* of *Briſtol*, Capt. *William Arnold* Maſter. That they ſail'd from *London* on the 12th Day of *March* laſt in Ballaſt, having one ſingle Gentleman on Board, who was called Mr. *Nowell*, upon what Account the Examinant does not know; the Examinant ſays he was ſhip'd to go to *Liſbon*, but the Ship went to *Bilboa*, without touching at any Place out of *England*; that he cannot ſay that they were driven by Streſs of Weather, or any

other Neceſſity, to go to *Bilboa* inſtead of *Liſbon*; that the Gentleman who was on Board was a luſty Man with a red Face and light-colour'd Wigg. That in about 9 or 10 Days they arrived at *Bilboa*, the Gentleman above-mentioned went on Shore, and ſometimes lay there, and ſometimes on Board; that he did not ſeem to be concerned about the Ship, or getting a Cargo for her, or to trouble himſelf with any thing relating to Merchandize; that he converſed with ſeveral People that look'd like Gentlemen, but were unknown to the Examinant; particularly, he remembers a *Scotch* Gentleman, for ſo he ſeem'd by his Speech, came on Board to ſee the ſaid *Nowell*, whom he, *Nowell*, called Brigadier; alſo, that one Mr. *Brown* uſed to viſit the ſaid *Nowell*, who lived in *Bilboa*; that after they had taken in their Cargo home, having ſtaid at *Bilboa* about 12 or 13 Weeks, they were detained about a Fortnight longer, by the King of *Spain*'s Order, as the Examinant has been informed, whoſe Officers came on Board, and the next Day after their coming on Board, the ſaid *Nowell* told the Examinant and others that they were ſtopt for 21 Days; that they had no contraband Goods on Board, and the Examinant does not know the Reaſon of their being ſtopt; the Stop being taken off, they ſail'd directly home to *London*, having on Board beſides the ſaid *Nowell* a *Scotch* Taylor, whoſe Name is *Alliſton*, and another *Scotch* Man, a tall lean Man, who look'd like a Gentleman, and his Name is *Maxwell*. The Examinant further ſays, that in their Voyage home, *Nowell* and *Alliſton* before-mentioned went on Shore at *Deal*, in a Boat that came on Board 'em; and that *Maxwell*, when they came up the River left the Ship off of *Greenwich*, and went off in a Wherry to *Greenwich*, as the Examinant believes. The Examinant ſays, he believes *Brown* above-mentioned to be an *Iriſhman*.

Capt. & Jurat. 6to die Auguſti 1722. The Mark of
+
Coram me *William Highier.*
Ch. Delafaye.

A A. 9.

The Examination of Samuel Mayo *of* Exeter, *Mariner*;

WHO ſays, that the laſt Voyage he made was on Board the Ship *Phineas*, *William Arnold* Maſter; that they departed from *London* the beginning or about the middle of *March* laſt; that as he beſt remembers, they ſailed from *Church-Hole* the 12th of that Month in Ballaſt, having on Board a ſingle Paſſenger. The Examinant ſays that he was ſhip'd for *Lisbon*, but went to *Bilboa*; that the Paſſenger called himſelf *Roger Noel*, was a large luſty Man with a red Face; that they arrived at *Bilboa* on *Eaſter* Sunday, where the Paſſenger went on Shore the next Day; that they continued at *Bilboa* about 13 or 14 Weeks, during which time the ſaid Paſſenger lay ſometimes on Shore, and ſometimes on Board. That the ſaid Paſſenger uſed ſometimes to frequent the Houſe of one Mr. *Brown* Merchant at *Bilboa*, and the ſaid *Brown*'s Nephews were ſometimes on Board with the ſaid Paſſenger; that the ſaid Paſſenger uſed to meet on Shore a *Scotch* Officer, as the Examinant apprehended him to be, whom the ſaid Paſſenger called Brigadier, but the Examinant does not remember his Name; that the ſaid Paſſenger did not ſeem to be much concerned about the trading Account; that they took in a Lading of Wooll and Iron, and ſo came home. The Examinant further ſays, that the Ship was detained about a Fortnight by Order (as he was told) of the King of *Spain*, which it was ſaid was on Account of ſome Paſſengers that were to have come on Board the ſaid Ship, but did not come. The Examinant ſays, that he had no manner of Acquaintance with the ſaid Paſſenger before he came on Board; that he gave a Guinea at Parting to thoſe that ſtaid on Board to deliver the Ship; that as the Examinant has heard he lodges at *Greenwich*.

Capt. & Jurat 6to die
Aug. 1722. *Coram me* *Samuel Mayo.*
Ch. Delafaye.

The further Examination of Samuel Mayo;

WHO ſays upon Recollection, that when he came into the Bay of *Biſcay*, the Maſter of the Ship ordered him to ſteer a different Courſe from that which led to *Liſbon*; that asking the Meaning of it, the Maſter anſwered that they were going to *Bilboa*, but bid him not ſay any thing of it to the reſt. That when they came to *Bilboa*, the Paſſenger mentioned in his former Examination was abſent a Fortnight, and it was ſaid he had been at *Madrid*; and that it was reported the late Duke of *Ormond*, or ſome other great Men, was to have come a Paſſenger on Board their Ship; that particularly an

an *Auguſtine* Fryar, born in *Ireland*, who reſides in the Convent at *Bilboa*, meeting the Examinant, told him, he the Fryar (called Father *John*) knew what they came about, and that they were good Lads, or to that Effect. The Examinant further ſays, that *Maxwell*, one of the Paſſengers they brought home is, as he has been informed, a Relation of the late Earl of *Mar*.

Capt. & Jurat die & ann. ſupradict. *Samuel Mayo.*
Coram me.
Ch. Delafaye.

A A. 10.

The further Examination of Samuel Mayo *and* William Hyer;

WHO having been ſhewn Captain *Charles Halſtead*, a Priſoner at Mr. *Bill*'s, this Morning, do ſay that he is the Perſon who went to *Spain* and came back on Board the Ship *Phineas* to which they did then belong, as is mentioned in their former Examinations, and who during that Voyage aſſumed the Name of *Roger Nowell*.

Capt. & Jurat 7mo die Auguſti 1722. *Samuel Mayo.*
Coram me The Mark of
Ch. Delafaye. +
William Hyer.

A A. 11.

The Examination of William Arnold, *Maſter of the Ship* Phineas *of* Briſtol;

WHO ſays, that in the Beginning of *March* laſt Mr. *Bowles* and Mr. *Colſton*, his Owners, told him they had hired the ſaid Ship to Mr. *Nowell*, and that he the Examinant ſhould follow the ſaid *Nowell*'s Orders, and ſhould enter the Ship for *Lisbon*. That he never had ſeen the ſaid *Nowell* till a few Days before he receiv'd thoſe Orders; that Mr. *Colſone* ordered him to come to the *Devil* Tavern at *Temple-Bar*, where he met Mr. *Nowell*, and they had ſome Diſcourſe of the Voyage, and *Nowell* gave the Examinant 6 or 8 Guineas to buy ſome Sea Store for him; That it was not explained to the Examinant at that time whither they were to go, but he was ordered to get his Ship in readineſs, which Ship is of about 120 Tun, and carries 14 Men beſides the Examinant. That having according to his Orders entered his Ship for *Lisbon* in Ballaſt, he took in the ſaid *Nowell* and ſet Sail from *London* about the 12th of *March*; That he knew not otherwiſe than that he was to ſail for *Lisbon*, 'till the Night before his Departure; when the ſaid *Nowell*, the ſaid *Bowles*, and the ſaid *Coulſon* came on Board and drank a Bowl of Punch, and then there was ſome Talk of going to *Bilboa*, but the Examinant did not then underſtand it to be a Thing determin'd; That when they were off the Start, *Nowell* was deſirous to put into *Torbay* out of the Weather, but the Wind becoming contrary, they could not do it; and *Nowell* was contented to go forward, and confirm'd the Examinant in the Suſpicion he had before that they were to go to *Bilboa*, telling him they had now a brave Wind to carry them thither; That they arrived at *Bilboa* the 25th of *March*, and the next Morning *Nowell* went up to the Town; the Examinant ſtaid on board: The 3d Day after their Arrival, the Examinant went up to the Town and attended Meſſieurs *Slinger* and *Hutchins*, to whom he was recommended by his Owners; he then underſtood that Mr. *Nowell* was gone to Mr. *Browne*'s an *Iriſh* Merchant at *Bilboa*, who help'd the ſaid *Nowell* to Horſes to go up into the Country, as the Examinant has been informed; but the Examinant does not know, nor has ever heard, whither the ſaid *Nowell* went. The ſaid *Nowell* was miſſing about three Weeks, during which the Examinant did no other Buſineſs but about fitting his Ship, expecting *Nowell*'s further Orders. When *Nowell* came back, the Examinant told him he believed he could get a Freight home if the ſaid *Nowell* did not load the Ship himſelf, who adviſed him to get what he could, and give him an Account, which the Examinant did, and *Nowell* approved of it. The Examinant took in Wooll, to which he was helped by Mr. *Brown* and Mr. *Slingar*, and Iron which one *Lynch* put on board him, and ſome Indigo and Annis-Seed. The 2d or 3d of *June* they were ready to have come away, but were ſtopt by the King of *Spain*'s Officers, upon which Mr. *Nowell* and Mr. *Brown* went to the Corregidore of *Bilboa*, and they ſent an Expreſs to *Madrid*, and in about a Fortnight they were cleared and came home, having Paſſengers on Board,

Mr.

Mr. *Allifon* and his Son, and one *Maxwell*, which laſt he took in at the Deſire of Mr. *Slinger*, and with the Conſent of Mr. *Nowell*. Mr. *Nowell* when he was at *Bilboa* converſed with Mr. *Brown* aforeſaid, with one Brigadier *Campbell* who came once or twice on Board, and with Mr. *Brown*'s Nephews. The Examinant ſays he never knew that *Nowell* had any other Name, but took that to be his right Name, being a perfect Stranger to him before this Voyage. The Examinant ſays he did not know of any Paſſengers he was to have brought home; That it was indeed the Diſcourſe at *Bilboa*, that he was to bring home the D. of *Ormond*, but he gave no heed to it, and told thoſe who mention'd it to him, if ſuch a Thing ſhould really be intended, he would not come home in the Ship. But he never was made acquainted with any ſuch Deſign, nor did he imagine any ſuch Thing. About the 7th or 8th of *July* they came to *Deale*, where Mr. *Nowell*, Mr. *Allifon* and his Son went on Shoar in the Pilot's Boat; the ſaid *Nowell* telling the Examinant he would ſee him at *London* to adjuſt Matters; that he was ſometimes at *Greenwich*, ſometimes at *London*, ſo that the Examinant meeting with him was uncertain. The Examinant ſays, that to the beſt of his Knowledge, this is all the Account he can give of that Voyage.

William Arnold.

Capt. 7mo die Auguſti 1722.
Coram me
Ch. Delafaye.

A A. 12.

The Examination of Charles Halſted *of* Rowley *in* Lancaſhire, *Eſq;*

WHO ſays, that about the 11th of *March* laſt, he went on Board a Ship in the River of *Thames*, called, as he believes, the *Phineas*, *William Arnold* Maſter, as Freighter of the ſaid Ship, which was in Ballaſt, and proceeded to *Bilboa*, where the Examinant landed; he deſires to be excuſed telling upon what Buſineſs he went, it being of ſuch Nature, that if he declared it, other People might make an Advantage of it, and he hopes yet to accompliſh it. He deſires to be excuſed from telling what Buſineſs he tranſacted at *Bilboa*, or to what Place he went from thence whilſt he was abſent from the Ship. He converſed at *Bilboa* with Mr. *Brown*, a Merchant there, and often met there one Brigadier *Campbell*, whom he had never ſeen before. He denys that he was to have brought any particular Paſſengers home with him. He poſitively denys, that he was to have brought over the Duke of *Ormond*, or that he ſaw him abroad, or any Body from him. He does proteſt that the Buſineſs he went upon, was meerly private Affairs, and no way relating to the Government. Says, that ſo far from it, that tho' he was twice within a few Leagues of *Madrid*, yet he would not go thither, becauſe the Duke of *Ormond* was there, whom he purpoſely avoided ſeeing. He owns he took upon him the Name of *Roger Nowell*, which he judged proper in regard to his private Circumſtances only. Being asked to ſign this Examination, he deſires to be excuſed, ſaying, it is not out of any Diſreſpect, but that he is careful how he ſets his Hand to any Paper.

Capt. 7° die Auguſti 1722.
Coram me
Ch. Delafaye.

A. A. 13.

The Examination of Capt. Charles Halſted *of* Rowley, *in the County of* Lancaſter, *taken before the Lords of the Committee of Council, the* 13th *of* Auguſt 1722.

BEing asked, if whilſt he was in *Spain* he ſaw the late Earl of *Mariſhal* or heard from him, He anſwer'd in the Negative; To the Queſtion, whether he knew where the ſaid late Earl was? he replies, that he cannot be poſitive. The Examinant ſays, he did not hear of any Arms being lodged at *Bilboa*; That he did not trade in Arms; That before he went thither he had nothing to do with Trade; That he went upon a Project of his own, the Diſcovery whereof would be prejudicial to him; That it was not to Trade. Being preſt to declare, Whether it had any Relation to Trade; he ſays, he does not know but it might. The Examinant ſays, That he truſted his Buſineſs with no Merchant at *Bilboa*, but only with the Perſon he went to, who is not a Merchant, but

is

is an Inhabitant, an *Engliſhman* or *Welchman* as he believes; the Examinant has known him for 7 or 8 Years. The Examinant ſays, he did not go to that Perſon upon any previous Correſpondence between them; That the nature of the Buſineſs required Secrecy; That he changed his Name (going this Journey to *Bilboa* under the Name of *Roger Nowell*) becauſe of ſome Misfortunes he lay under. That he may not declare his Buſineſs, being afraid if it was known, others might take it out of his Hands. He owns that he paid for the Hire of the Ship 200 *l.* in hand, and was to pay 300 *l.* in the whole for 3 Months, and 100 *l. per* Month if he had her a longer Time. Being asked if his Buſineſs was of ſuch a Nature, as would require his applying to the Court of *Spain*; he anſwers in the Negative. He ſays that he apprehends the Occaſion of the ſaid Ship being ſtopt at *Bilboa*, which carryed him thither, was, that Mr. *Slinger*, the Merchant there (whom he had never been to viſit) taking out a Bill of Health for the Examinant, ſet him down as a Paſſenger; That the Corregidore told him, he had Orders to ſtop and examine all Paſſengers, and to ſend their Examinations up to Court, and that the Corregidore did examine him much to the ſame Points as he has been examined here. That he did not hear of any Reaſon for ſuch Orders being given. Being askt upon whom he had Bills; he ſays he carry'd none, he went with Mony in his Pocket, and had he wanted, he believes thoſe to whom he went would have given him Credit; That he had Reaſon to believe that Perſon was in *Spain*; and if that Perſon had not been there, he ſhou'd have met with ſome other Perſon for his purpoſe. Being ask'd, why he took a Cocquet for *Lisbon*; he ſays, it was by way of Precaution, in caſe he ſhould have been driven thither; but he owns he took out none for *Bilboa*. Being askt to ſign his Examination, he ſays he does not care to do it, and deſires to be excuſed.

A A. 14.

The Depoſition of Thomas Carter, *living at the* Torbay *and* three Sheds, *at* Elephant-Stairs *in* Southwark, *Mariner*;

WHO ſays, That in the Month of *March* laſt he was ſhipp'd on board the Ship *Phineas*, Captain *Will. Arnold* Maſter, for *Lisbon*, the ſaid Ship being in Ballaſt, and having only a ſingle Paſſenger on Board, who went by the Name of *Nowell*. That inſtead of going to *Lisbon*, they went to *Bilboa*, where they arrived towards the end of the ſame Month. That the Day of their Arrival there, the ſaid *Nowell* went on Shore, and lay that Night at Mr. *Brown*'s an *Iriſh* Merchant, and the next day went forward towards *Madrid*; and the Deponent, who had waited upon him on Shore, attended him as far as St. *Andero*, and the Weather being bad, the ſaid *Nowell* bid the Deponent ſtay there till it was better, and then go to a Place about a Mile and half below *Bilboa*, and wait for his return. That in about a Fortnight after the ſaid *Nowell* came back, and lodged at the ſaid Place during the Remainder of his Abode in *Spain*, at a *Scotch* Phyſician's, and the Deponent alſo lodged there, and waited upon the ſaid *Nowell*: That three Days after the ſaid *Nowell*'s Return, the Deponent heard him propoſe to the above-named Captain *Arnold*, to carry the late Duke of *Ormond* and four other Perſons to *England*, which the ſaid Captain *Arnold* refuſing to do, the ſaid *Nowell* inſiſted, ſaying the Ship was his, ſo long as he paid the Hire of her, and the Wages and Victualling, and they had high Words upon it: That as the Ship was ſailing away, ſhe was ſtopp'd at *Porto Gallet* in the River of *Bilboa*: That this Stop, as the Examinant apprehends, was occaſioned by a Report that they were to bring home ſome Paſſengers whom the *Spaniards* would not allow to come out of the Country: That the Deponent did ſee a Letter whilſt they were on Shore in *Spain*, which the ſaid *Nowell* received, to this Effect, That the Perſon who wrote it, hoped he would be as good as his Word, and call for them at St. *Andero*, but the Deponent does not remember by whom it was ſigned; the ſaid Letter was directed to Colonel *Nowell Butler*, which was the Name the ſaid *Nowell* went by whilſt he was in *Spain*: That after ſome time the ſaid Ship being releaſed, they ſail'd in *June* laſt from *Porto Gallette*, and looking over the Proviſions they found them very ſhort, upon which the ſaid *Nowell* quarrell'd again with the Captain *Arnold*: That when they came off of St. *Andero*, they ply'd off and on about four Hours, the ſaid *Nowell* expecting ſome body to come off in a Boat, but no body coming, and Night drawing on, they made the beſt of their way to *England*, and arrived in the beginning of *July* in the *Downs*, where the ſaid *Nowell* went on Shore, whoſe true Name the Deponent has ſince underſtood to be *Halſted*. This Deponent further ſays, That he has heard the ſaid *Halſted* ſeveral times own he had been at *Madrid*, during his Abſence from the Ship before-mentioned, and that he has heard one *Alliſon* an Inhabitant of *Madrid*, whom they brought over Paſſenger, ſay, that he had ſeen the ſaid *Halſted*, alias *Nowell*, there.

Thomas Carter.

Jurat. 5° die Feb. 1722-3.
Coram me
Townſhend.

A A. 15.

The further Depoſition of Thomas Carter;

7 *Feb.* 1722-3.

WHO ſays, That in their Voyage to *Bilboa* mentioned in his former Examination, the Ship *Phineas*, on board which they were, carried twelve Guns, and on board twenty five Barrels of Powder, and ſeven Barrels of Shot both ſmall and great, that they had ſmall Arms, ſeven Muskets and ſix Blunderbuſſes, and had fourteen Men on board, which he apprehends was a greater Proviſion for an Engagement than would have been neceſſary for an ordinary trading Voyage.

Thomas Carter.

A A. 16.

The Depoſition of John Aliſon, *living in* New-Street, *at Mr.* Cardwell's, *at the Sign of the* Golden Ball, *near* Hanover-Square, *Taylor*;

WHO ſays, That he departed from *Madrid* the Fourth of *June* laſt N. S. in order to come for *England*; That ſome time before he came away, the late Duke of *Ormond*, who had reſided a conſiderable time at *Madrid*, had ſent away his Horſes and Equipage from thence, and put his Servants upon Board Wages, and it was reported he was to go to *Ventoſilla*. That he came to *Bilboa* to get Shipping, and was twelve Days on the Road; That being arrived at *Bilboa*, he enquired for a Paſſage to *England*, and heard of a Ship that was bound thither, called the *Phineas*, one *Arnold* Maſter, but was ſtopt; and there being no other Ship in that Port bound for *London*, he agreed to take his Paſſage on board her; That going to the Corregidore of *Bilboa* to get a Paſs for *England*, he found there Mr. *Brown* a Merchant, and one who went by the Name of *Nowell* with the Corregidore, and *Brown* askt the Corregidore, why the Ship was ſtopt; to which the Corregidore anſwer'd, it was not the Ship, but *Nowell*'s Perſon that was detained, and that he detained him by Orders from *Madrid*; That the Examinant heard at *Bilboa* a Report that the late Duke of *Ormond* was upon the Coaſt in Diſguiſe; That upon taking freight on Board, the Merchants applyed to have leave for the Ship to ſail, and were anſwered, She might Sail; but ſhe ſtill remained there by reaſon, as the Examinant was told, that the Captain of her could not come away without the ſaid *Nowell*, whoſe Orders he was to follow; The Examinant ſays that he did not himſelf ſee the ſaid *Nowell* at *Madrid*, but it was the common Report, and the Examinant was told by People of faſhion at *Bilboa*, that the ſaid *Nowell* had been at *Madrid*, and came back in fifteen Days, and the Expedition of his Journey, and the Ship's coming in Ballaſt from *England* to *Bilboa*, had raiſed a Suſpicion in that Place, that he came on Account of the Conſpiracy in *England*, and it was believed he came over to the late Duke of *Ormond*.

Capt. & Jur. 11 *die Feb.* 1722-3.
Coram me
Ch. Delafaye.

John Aliſon.

B.

PAPERS

RELATING TO

CHRISTOPHER LAYER.

A

A *Liſt of Papers relating to* Chriſtopher Layer.

1. INformation of Mr. *Stephen Lynch.* 20 *Sept.* 1722. p. 3
2. Examination of *Stephen Lynch.* 21 *Sept.* 1722. ibid.
3. Further Examination of *Stephen Lynch.* 24 *Sept.* 1722. p. 4
4. Further Examination of *Stephen Lynch.* 28 *Sept.* 1722. p. 5
5. Depoſition of Serjeant *Matthew Plunket.* 21 *Sept.* 1722. ibid.
6. Further Examination of Serj. *Plunket.* 22 *Sept.* 1722. p. 6
7. Enſign *Earl*'s Account of his Converſation with Mr. *Layer.* p. 7
8. Examination of *Chriſtopher Layer.* 19 *Sept.* 1722. p. 11
9. Further Examination of *Chriſtopher Layer.* 19 *Sept.* 1722. ibid.
10. Minutes of an Examination of *Chriſtopher Layer*, taken before a Committee of Lords of the Council. 21 *Sept.* 1722. p. 13
11. Minutes of the Examination of *Chriſtopher Layer* before the Lords. 1 *Octob.* 1722. p. 14
12. Examination of *Aaron Thompſon.* 3 *Octob.* 1722. p. 17
13. Depoſition of *Charles Jacobs.* 24 *Sept.* 1722. p. 18
14. *William Corke*'s Depoſition. 24 *Sept.* 1722. ibid.
15. Further Depoſition of *William Corke.* 20 *Nov.* 1722. p. 19
16. Depoſition of *Samuel Mitchell.* 25 *Sept.* 1722. ibid.
17. Further Depoſition of *Sam. Mitchell.* 20 *Nov.* 1722. p. 20
18. Examination of *Hugh Floyd* before the Lords. 29 *Sept.* 1722. ibid.
19. Depoſition of Mrs. *Eliz. Maſon.* 29 *Sept.* 1722. p. 22
20. The ſmaller Bundle of Papers belonging to Mr. *Layer* marked B X. and N° to 9. inclusive, taken at Mrs. *Maſon*'s. 29. *Sept.* 1722. ibid.
21. The larger Bundle of Papers belonging to Mr. *Lawyer* marked B Y. and N° to 42. inclusive, taken at Mrs. *Maſon*'s, 29 *Sept.* 1722. p. 26
22. Foul Draught of a Letter written by *James Plunket.* p. 43
23. Foul Draught and Heads of a Letter written by *James Plunket.* ibid.
24. Letter from *Dixwell.* 21 *April* 1721. p. 44
25. Extract of a Letter from *Rogers* to *Digby* the 5th *July* 1722. ibid.
26. Extract of a Letter from *Rogers* to *Digby* the 23d *July* 1722. ibid.
27. Anonymous Letter à Monſ. Monſr. *Bonnaville.* 27 *Sept.* 1722. p. 45
28. Depoſition of *William Squire.* 29 *Sept.* 1722. p. 46
29. Examination of *William Squire.* 19 *Sept.* 1722. ibid.
30. Examination of *James Peterſon.* 19 *Sept.* 1722. ibid.
31. Examination of *James Peterſon.* 21 *Sept.* 1722. p. 47
32. The Examination of *Tho. Cooke* and *James Brayne*, Watermen. 21 *Sept.* 1722. ibid.
33. *Plunket*'s Letter to *Layer.* 8th *Nov.* 1720. ibid.
34. *Layer*'s Letter to Lord *North and Grey.* 27 *March* 1722. p. 48
35. Examination of *Simon Swordfeger*, 29 *Septemb.* 1721. with a Paper of Memorandums annexed taken in *Swordfeger*'s Glaſs Caſe. ibid.

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36. Information of Dr. *Blackerby Fairfax*, 1722. *Nov.* 3. p. 49
37. Further Depoſition of Ditto. 1722-3. *Feb.* 12. p. 50
38. Examination of *Chriſtopher Layer.* 1722-3. *Jan.* 19. & *Feb.* 4. ibid.

The Information of Mr. Stephen Lynch;

WHO voluntarily cometh and maketh Oath, that about four Months ago one Mr. *Layer*, a Counſellor at Law, inſinuated to this Informant, that there would be a Revolution in favour of the Pretender, and askt the ſaid *Lynch* if he would be of the Party. The ſaid *Lynch* further depoſeth, that the ſaid *Layer* told him, that he wanted a Perſon of Reſolution, who would undertake to chuſe out proper Perſons, and ſet himſelf at the Head of them, to ſeize the Perſon of the Earl of *Cadogan*; which Propoſition the ſaid *Lynch* confeſſeth to have accepted; and the better to know how to put the Deſign in Execution, did go with the ſaid *Layer* to the ſaid Lord *Cadogan*'s Houſe, and did view the lower Apartment thereof, and the Garden and Avenues about the Houſe, to ſee which Place would be the propereſt to ſeize the ſaid Lord *Cadogan* in. Being ask'd, what Day? He the ſaid *Lynch* ſays, he does not remember the Day of the Month, but that it was on the Day that a Soldier was to have been ſhot in *Hyde*-Park for Deſertion, which Execution was put off. Being ask'd if any Time was fix'd for ſeizing the Lord *Cadogan*, this Informant ſaith, that there was no Time fixt, but that *Layer* told him he ſhould receive Orders about it from a Nobleman, but would not mention to him who that Nobleman was, tho' this Informant ask'd the ſaid *Layer* ſeveral times, the ſaid *Layer* only telling this Informant he ſhould know it in due Time. This Informant being ask'd how he came firſt acquainted with the ſaid *Layer*, ſaith, that one Doctor *Murphy* introduced him, and that the ſaid Doctor *Murphy* told him this Informant, that he believed there would be ſome Inſurrection in favour of the Pretender. That this Diſcourſe paſs'd between him this Informant and the ſaid Dr. *Murphy* about five Months ago. This Informant being ask'd whether any thing further paſs'd between him and Dr. *Murphy*, ſays, that nothing did paſs but Diſcourſes in general concerning the Diſaffection of the Nation, and how ripe People were for Rebellion, which the ſaid *Murphy* expreſs'd himſelf as extremely deſiring ſhould come to paſs. This Informant being ask'd, what further Diſcourſes paſs'd between him and the ſaid Mr. *Layer*, ſaith, that the Day after the Biſhop of *Rocheſter*'s Commitment to the Tower, he the ſaid Informant did ride out in Company with the ſaid *Layer* into *Eſſex*, and dined at the *Green Man* near *Epping* Foreſt, where the ſaid *Layer* diſcourſing of the Deſigns againſt the preſent Government, took out of his Pocket a Paper, which he told this Informant was a Declaration in the Name of the Pretender, and permitted this Informant to read ſeveral Lines at the latter End of the ſaid Paper. This Informant being ask'd, if he could recollect the Subſtance of what he ſo read, depoſeth, that he doth recollect that the Subſtance of what he ſo read tended to invite the Generality of the Nation to take up Arms, and repair to the Party that was to riſe, in order to reſcue the Nation from the Calamities they endure under the preſent Government, with a Promiſe of three Guineas to every Serjeant and Trooper, two Guineas to every Corporal, and one Guinea to every common Soldier, who ſhould repair to the Party, which ſaid Sums were to be paid immediately upon their coming over, with a promiſe of future Advancement. Being ask'd what kind of Paper it was that he the Informant read the ſaid Lines out of, ſaith, it was to the beſt of his Remembrance, a common Sheet of Paper folded long wiſe, and then doubled down, which the ſaid *Layer* put into his Pocket, after that the Informant had read certain Lines as aforeſaid. This Informant doth likewiſe remember, that mention was made in the ſaid Paper of the Lord *Cadogan*'s having been ſeized, and actually remaining in their Poſſeſſion. This Informant being ask'd, whether he had often kept Company with the ſaid *Layer*, doth anſwer in the Affirmative, but doth not recollect what Company he hath ſeen with him, except Dr. *Murphy*, but ſaith that he once ſaw a Perſon dreſs'd like a Serjeant of the Guards with the ſaid *Layer* at the *Queen*'s *Head* Tavern in *Great Queen-ſtreet*. This Informant being ask'd whether he never heard the ſaid *Layer* talk of a Scheme that was formed againſt the Government, doth ſay, that he hath heard the ſaid *Layer* talk of ſuch a Scheme, and that the proper time of putting the ſaid Scheme in Execution would be at the riſing of the Camp.

Capt. & Jurat. die 20 *Sept.* 1722. *coram me*

Carteret.

Stephen Lynch.

B. 2.

The Examination of Mr. Stephen Lynch.

THat the Day after the Biſhop of *Rocheſter* was committed to the Tower, Mr. *Layer* carried this Examinant to the Lord *North and Grey*'s Houſe at *Epping*, and there preſented this Examinant to Lord *North and Grey*, as an honeſt Gentleman, and that Mr. *Layer* told this Examinant, he had recommended him to Lord *North and Grey* as one he might confide in, to execute any thing he ſhould command him. That Mr. *Layer*

B. 2.

Layer deſired this Examinant to go well armed down to *Epping*, for that he had things of Value, which he would upon no account loſe, which he afterwards explained to be Papers that he carried down with him, and which he ſhew'd him at the *Green Man*. That Mr. *Layer* told this Examinant, a Project was formed for raiſing a General Inſurrection in favour of the Pretender, in which he hoped to be ſupported by a great Part of the Guards; which was to be put in Execution upon the breaking up of the Camp, becauſe it would be otherwiſe difficult to get the Men together, or to have Opportunities to talk with them in private, which could be eaſily done in their Quarters. That Mr. *Layer* told him a Nobleman whom he did not name to him, but by the tenour of all his Diſcourſes and Converſations, this Examinant did take to be the Lord *North and Grey*, had a Commiſſion from the Pretender of Generaliſſimo, and full Powers to act as he ſhould think proper. That he was ſure of great Support from great Numbers in the City of *London*; That ſeveral of the Nobility and Gentry, and greateſt part of the Commonalty, would certainly declare for them. That the Papers which Mr. *Layer* ſhew'd this Examinant at the *Green Man*, were a Declaration in the Name of the Pretender. That Dr. *Murphey* firſt introduced this Examinant into the Acquaintance of Mr. *Layer*, which was about four Months ago, and that he has been generally in Company with Mr. *Layer* three or four times a Week ever ſince, except when Mr. *Layer* was out of Town; and that all their Converſations have been generally upon the Subject of a Plot or Conſpiracy againſt the Government, which when this Examinant urged to be diſpatched, Mr. *Layr* told him it was not yet ripe, but always encouraged him to hope it would be ſoon brought to perfection. That when *Layer* engaged this Examinant to undertake the ſeizing of Lord *Cadogan*, he told him, that an Opportunity would be found to ſeize Lord *Townſhend*, Lord *Carteret*, and Mr. *Walpole*, and wiſh'd it could be ſo ordered, that this Examinant might have the Direction of ſeizing the Miniſtry. That Mr. *Layer* told this Examinant, that he had an Account, that one of the Agents of *France* had aſſured him, that as ſoon as they had brought Matters to a head here, they would certainly be aſſiſted and ſupported by the Court of *France*. That this Examinant is not poſitive, whether Mr. *Layer* told him, that he went himſelf to the Agent of *France*, or ſent ſome other Perſon to him. That this Examinant had no Knowledge or Acquaintance with Lord *North and Grey*, until he was carryed to his Houſe by Mr. *Layer*. That Mr. *Layer* had explained the whole Deſign and Undertaking to this Examinant, before he carryed him to Lord *North and Grey*; and that this Examinant lay that Night at Lord *North*'s Houſe, and dined there the next Day. That Mr. *Layer* in all his Converſations with this Examinant, talk'd of the Deſign as going on proſperouſly, and growing every Day more favourable to the Pretender.

Capt. & Jurat. die 21° *Sept.* 1722. *coram me*
Carteret.

Stephen Lynch.

B. 3.

The further Examination of Stephen Lynch;

WHO ſays, that about two Months ago, Mr. *Layer* told him there was a Deſign of ſurpriſing the *Tower*, which was to be done by the means of a Colonel of the Guard, who would contrive to mount the Guard there that Day, on which the ſaid Deſign was to be put in Execution, in order to facilitate the ſame. That the General Scheme for a Riſing was, that Numbers of People from the Mint and other Parts of the Town ſhould get together, and ſhould have Arms put into their Hands; that this would have been put in Execution before now, but they waited for the breaking up of the Camp. That upon Mr. *Layer*'s reading to the Examinant the Declaration (at the *Green Man*, as mentioned in his former Examination) when he mentioned to the Examinant the ſeizing of the Miniſtry, *Layer* told him, that as the Declaration did not mention the Pretender, but only the Safety of the Nation, they intended to ſend a Guard to confine the King, under pretence of ſecuring His Majeſty's Perſon. That ſome few Days before *Layer* was ſeized, he told the Examinant that they had altered the Declaration ſince the time he had read it to him, and they had now reſolved to name the Pretender. That ſome few Days ago the Examinant asking *Layer* what News? he told the Examinant that he muſt be in readineſs for the Camp would ſoon break up, which would be the proper time to put the Deſign in Execution.

Capt. & Jurat. 24° *die Sept.* 1722. *coram me*
Ch. Delafaye.

Stephen Lynch.

B. 4.

B. 4.

The further Examination of Mr. Stephen Lynch;

WHO ſaith, that the Day after the Biſhop of *Rocheſter's* being Committed to the *Tower*, He the Examinant being at the *Green Man* at *Epping Foreſt* with *Chriſtopher Layer* of *Southampton Buildings*, the ſaid *Layer*, then and there took notice to this Examinant of the Deſign formed, for raiſing a General Inſurrection in *England*, in favour of the Pretender, of which deſign *Layer* had at ſeveral other times and places informed this Examinant. That at the *Green Man* aforeſaid, *Layer*, as well before as after his ſhewing to the Examinant, the Lines of the Declaration mentioned in one of this Examinants former Depoſitions, expreſs'd himſelf highly ſatisfy'd with his having been ſo happy, as to engage a Perſon of ſuch Courage and Conduct as the Examinant, in the deſign formed in favour of the Pretender, and particularly in the enterpriſe of ſeiſing the Perſon of Earl *Cadogan*, and that he, *Layer*, ſaid, he wiſh'd he might be able to order matters ſo that this Examinant might have the ſole direction of ſeiſing the other Miniſters mentioned in this Examinants former Depoſition; and that *Layer* farther told this Examinant that he hoped and expected that upon the ſeiſing the Lord *Cadogan*, moſt of the Kings Guards would declare for the Pretender, and that he, *Layer*, then and there ſaid ſeveral other things to this Examinant to encourage him to perſiſt in the intereſt of the Pretender, and to be faithful and reſolute in the Execution of this deſign; and that *Layer* at the ſame time told him, that he had ſpoke with ſeveral of the Serjeants of the Guards and found them very ready to joyn in the deſign formed in favour of the Pretender.

Capt. & Jurat 28to die Sep. 1722. Coram me Townſhend. — *Stephen Lynch.*

B. 5.

The DEPOSITION *of Serjeant* Mathew Plunkett *of* Drum Alley *in* Drury-Lane.

HE the ſaid Serjeant Depoſeth on Oath that one *James Plunkett* a Solicitor living in the Back Lane behind the *Caſtle Tavern* in *Drury Lane*, came to the Deponent in *July* laſt to the beſt of his Knowledge from Councellor or Mr. *Layer* to deſire him to meet the ſaid *Layer* at the *Italian Coffee-Houſe* in *Ruſſel Court*. That the Deponent did not meet him there, not having Money to go to a Coffee-Houſe; but met him the ſaid *Layer* in *Lincolns-Inn-Fields* the *Sunday* following, that he carryed him into a Coach Houſe Gate near *Turn-Stile*, told him there that he ſhould not tell *James Plunkett* that he had ſeen him, he told him that ſeveral Peers or Nobles of the Land particularly the Lord *North* and *Grey*, and Lord *Strafford* had a mind to bring their King into the Land, whom he explained to be the Pretender, he ſaid the Land was enſlaved and the People obliged to be Slaves, that tho' the Pretender was a Papiſt, there was no difference between a Papiſt and a Lutheran King, gave him half a Crown, and ask'd him if he knew any old Serjeants or Soldiers that could diſcipline a Mobb, he ſaid he knew 25. *Layer* ſaid then you ſhould have their Names enrolled that he might know where to find them: He ſaid he did not know where they be, for there were many up and down the Country. *Layer* told this Deponent that he would reward in Money, or ſomething as good; and told him he'd ſend a Man to talk with him and ſo parted. Within three Days after *William Jeffreys* a Non-juring Parſon came to his Houſe in a Blew-Cloak, ſpoke to his Wife for he was not at home. Two Days after the ſaid *Jefferys* came to his Houſe again in a Black Cloak and a Band. The Deponent being at home, he ask'd him if he knew Mr. *Layer*; he replyed he had a ſlender Acquaintance with him. *Jeffreys* deſir'd him to go with him to the *Caſtle Tavern* in *Drury Lane*. They drank two Pints of Wine which *Jeffreys* paid for. *Jeffreys* told him he came from Mr. *Layer*, who gave his Service, and further that he was imployed by the ſaid *Layer* to go to ſuch as he was, who were old Serjeants to get a Parcel together to diſcipline Citizens, and other Mobb in the Country, who would riſe when a Beacon was put on a Hill, and that every Lord or Gentleman was to bring his People

 Armed,

Armed, and that then the Army they were ſure would be for them. On parting he deſired him the Deponent to meet him the next Day in the afternoon about five a Clock, at the *Cock* and *Bottle* in the *Strand*. The Deponent brought *John Child* his Friend with him, to bear witneſs what he ſhould ſay, he the ſaid *Jeffreys* made the ſame offers to *Child*, as he had done to the Deponent. They had three Pints of Beer, which *Jeffreys* paid for, and gave half a Guinea to the Deponent. The Deponent further ſaith that he did not ſee the ſaid *Jeffreys* ſince: But in a Fortnight after, as well as he can remember, he received a Letter from the ſaid *Jeffreys* by Penny-Poſt, acquainting him with Mr. *Layer* being come to Town from the Country, and would be glad to ſee him the ſaid Deponent, who went to Mr. *Layer*'s Houſe three Days after in the Morning. Mr. *Layer* was then gone out, but the Footman deſired him to come in the Evening about five a Clock, when he ſaw Mr. *Layer* who ask'd him how he did, and what he had done. The Deponent ſaid there were old Soldiers enough. Thereupon Mr. *Layer* repeated what ſaid before, and what the Non-juring Parſon had ſaid before, recommending to him to enroll the Men, *&c.*

Further that Mr. *Layer* told the Deponent on *Sunday* laſt, that Major *Barnwell* had been with him the ſaid *Layer*, and deſired a Thouſand Pounds of him to ſpend among the Officers of the Army to corrupt them; but the ſaid *Layer* ſaid he would not truſt him. That Major *Barnwell* brought him acquainted with the ſaid *Layer*.

Matthew M. P. *Plunkett*.
His Mark

Jural coram me
the 21ſt Sep. 1722.
Kingſmill Eyre.

B. 6.

The further Examination of Serjeant Matthew Plunkett;

WHO having heard his former Examination (taken yeſterday before *Kingſmill Eyre* Eſq;) read, does affirm the ſame, and every part thereof to be true; and ſays that upon recollection he does further remember the following particulars. That he was above an hour in diſcourſe with Mr. *Layer* in the Coach Houſe Gate near *Turn Stile* mentioned in his ſaid Examination, and among other things *Layer* asked him, what he thought of Lord *North* and *Gray* for an Officer, to be at the Head of the Rebells, to which the Examinant anſwered, he had never been under his Lordſhips command, but he looked upon him to be a great Man, one of the Peers of the Land. Then *Layer* asked him, what he thought of the Earl of *Strafford* for a General, the Examinant returned the like anſwer. Then *Layer* asked the Examinant his Opinion of General *Primroſe*, the Examinant ſaid he had lately ſeen him the firſt time at *Chelſea* paſſing by in his Coach, but he was an old Man, to which *Layer* replyed no matter for that he was a brave General. That *Layer* asked him alſo what he thought of General *Webb*, the Examinant ſaid he had heard a great Fame of him. That *Layer* told the Examinant all the Parſons abovenamed were ready for a Riſing to Head the People, and that *James Plunkett* mentioned in his former Examination told him the ſame; that *Layer* told the Examinant that the Duke of *Ormond* would come in a ſingle Ship with ſome Officers, and that it had been done long ago, if the *French* Amabſſador had not been told of it, who told it again to the King. That *Layer* told the Examinant that there were only eight or nine Upſtarts belonging to King *George*'s Court, but the old Families would not be run down, for they ſhould all be made Bond ſlaves by an Arbitraty Power if they did not prevent it. The Examinant ſays that the laſt time he ſaw *Layer* was on *Sunday* laſt, when *Layer* told him we ſhould have an Army of *Dutch* here, and talked of the Misfortunes that would follow. That the Examinant would ſee on the Pretenders ſide ſeveral Half-pay Officers, particularly of the *Fitzgeralds*.

The Examinant further ſays that in *June* laſt he went to Sir *Daniel Carrol* in *Clarges Street* with whom he has an Account depending, That Sir *Daniel* told him he was glad to ſee him. That he (Sir *Daniel*) had been in *France* about two Years ago, and was much made of by General *Dillon* and the other Generals, upon which he had like to have been ſtruck off his Half-pay. That the Examinant repreſenting to him ſome Injuſtice he had received from him formerly in

the

the Service, by being put by a Quarter Maſter's place, *Corroll* took hold of his Hand telling him, hold, hold it may lye in my Power to make you an Officer yet; for *England* was never *England* till this time, for they are joined Hand in Hand together, and you will ſee good times yet; That laſt *Tueſday* was Seven-night the Examinent went to *Richmand* to ſee Sir *Daniel Corroll* to preſs him for the Payment of the Money he owes him, and Sir *Daniel* ſaid as ſoon as he came to Town, he would pay him twenty Guineas, but that was not all, he would do more for him, and hoped to ſee him an Officer ſoon, for they ſhould ſee good Days yet, by which the Examinant underſtood that he meant the ſame that *Layer* meant.

Jural 22d die Sep. 1722. *Matthew* M. P. *Plunkett*
His Mark.

Coram me
Townſhend.

B. 7.

Copy of Enſign Earle's *Account of his Converſation with Mr.* Layer.

My Lords,

WITH humble Duty to Your Lordſhips, and in Obedience to Your Commands this day in Council, I have with the greateſt care immaginable refreſhed my Memory, by recollecting ſo far as I am able, the Particulars of what paſſed in Converſation with Mr. *Layer*, on or about the latter end of *February*, or beginning of *March* laſt, and as I have confined my ſelf to the exacteſt bounds of truth and Integrity in the Rehearſal, I do now with the moſt profund Difference ſubmit unto Your Excellencies, what uſes may be made of the following Narrative.

About *February* or *March* laſt, Mr. *Layer* (as I was told) had often enquired for me at the *Tylt-Yard-Coffee-Houſe*, and had left Meſſages there of his deſire of ſeeing me, that he ſhould be glad I'd name a Place and time where he might have that opportunity, and at laſt left a Letter for me at the *Tylt-Yard* to that Effect only.

Upon this preſſing Letter, and being to go into *Norfolk* within two or three Days, I took Coach and went (according to the Direction therein given of his dwelling) to his Houſe.

I all along from his firſt enquiry after me, had a Suſpicion of ſome excuſes he had to make for an Opinion received of his being concerned with my elder Brother (ſince Deceaſed) in Law Affairs to my Prejudice, was alſo dubious whether it might not be to make ſome Propoſals about changing ſome Securities of a Mortgage upon the Eſtate, or to treat of Purchaſers relating to it. And of this Suſpicion I made Mr. *Jermye* acquainted when in Town, Mr. *Jermye* then told me that *Layer* had made ſome ſuch like Propoſal, or Overture of treating about my Eſtate with him, if it was to be diſpoſed of, and that he Anſwered him that he knew of no ſuch Intention for the preſent, and that he believed it was in a Gentlemans Hands that would keep it.

After driving from Place to Place, I at laſt heard he was gone Home, whither I went immediately and found him.

He led me into a little Parlour juſt by the Door, and making ſome Apologies for it duſtineſs, deſired me to excuſe the carrying me into his ſtudy which was, I think the next Room to it.

He begun with his very great joy to ſee me poſſeſſed with the proſpect of an Eſtate, which would undoubtedly be mine very ſoon (ſome other Speeches of that ſort over) I told him I believed he had not heard my Father was alſo Dead; He told me no, and behaved Suitably in that reſpect to that Occaſion.

Inquired, with ſome Anxiety, after my Health and then Expoſtulated a little about my ſtay in the Army, you'll find, ſays he, great Fatiegues in it and Difficulties and your Conſtitution does not ſeem to me the fitteſt for ſuch Severities; beſides, ſays he, with your Eſtate methinks a Country Life ſhould be infinitely more Entertaining, and the Character of an honeſt Country Gentleman vaſtly Superior to that of Captain of the Guards: Ask't my Pardon if he made a further doubt or rencak, that, he believed my Commiſſion was only Enſign, the meaneſt loweſt Poſt in the whole Army, was but one degree above a Serjeant (ſtill ſaftning all his Expreſſions with affability) and another thing, ſays he, I have heard but don't know the truth of, that you are, they ſay, the only Officer in all the Corps of Guards that is a *Norfolk* Man, which, ſays he, is the more particular

in you, becauſe of the different Opinion of your Family. The Colonel (meaning my Father) always was eſteemed a very honeſt Gentleman, and beloved by every body, and his Stanchneſs in his Principles muſt needs have made him ſo, and I do not doubt but they will You. But methinks, ſays he, I would fain have you quit the Army, and often repeated Expreſſions of that Tenour: This put me upon enquiring into his diſlike, and ſo great prejudice to the Service, ſaid, that the Taſtes of People were indeed very different; but though moſt Young People had a liking to the Army. That's true, ſays he, abundance have, but then thy are generally ſuch whoſe narrow Fortune in the World would admit of no other way of appearing among Gentlemen: He verily believed that was the Principal Motive with the generality: Rather, or more however, than an Affection for the Services required of 'em. Why, ſays he, you ſee the murmurings they have amongſt 'em, and the uneaſineſs of the Soldiers continually venting it ſelf as much as they dare ſhow it; and ſays egad it's my Opinion, I tell you truly, that if the *Preſton* Buſineſs was to do over again, you'd find abundance of your Gentlemen would behave otherwiſe than they did. I Queried with him who could poſſeſs a Man of his good Senſe with ſuch a Notion; which from the nature of the thing could be no more than Gueſs-work. Can you imagine ſays I, that theſe People ſhould any of 'em be ſo ſilly, or that Numbers of 'em eſpecially ſhould be ſo, as to make a Declaration of this kind, that prudent Men might give a Credit to? It's monſtrous to deceive ones ſelf with ſuch a Notion. Why ſays he don't you obſerve a good deal of this now among your Men ſometimes? Come come there's no reaſon for you (and I talking thus Indifferently over Matters) to wrong your own Judgment, you muſt have obſerved ſome Tendency, ſoure Diſpoſition in the People in General to attend Matters: It's very viſible ſays he, for the Nation never was in ſuch a Torment as it's now: People are all Ripe and Red-hot as can be.

The Nation Sir, ſays I, is doubtleſs in a very great forment, and People are in general diſcontented, but it would be a difficult matter I believe to find Men enough among 'em to agree about their Reſentment, or how they ſhould fall out to any purpoſe: And as for any Expectations they might have from the Army (you'll give me leave to be a better Judge of that than you) you'd find it the intire Reverſe all Chimera! He ask'd me whereabouts I thought or Number might be, which I remember, I vaſtly multiplyed to him, but have forgot what particular Numbers I ſaid. Upon my Soul, ſays I, Sir, it's my firm opinion, the Army throughout is very Stanch at this time: A Stancher ſet of Officers I believe was never known, and for the private Soldiers; beſides that they have very little Optian upon Command, I know no better way of judging their Inclinations, than by what we now and then can learn from their Converſation; I've often paſſed by where they have been drinking, and have ſeen 'em in all humours, I never could obſerve but they are all full of Loyal talk; Drunk and Sober if they're together at any time, it's long live King *George*, God Bleſs the Family and ſuch like—and upon Guard I have always found 'em quiet and orderly. I ſee no diſpoſitian, ſays I, at all Mr. *Layer* amongſt any of 'em to juſtify ſuch an Aſperſion; a few indeed that have been Diſappointed may perhaps be angry and trimble; but what's that? He inſtantly excuſed himſelf as to any thing intended of that kind by what he had ſaid, and hoped I would not take it ſo, ſaid it was only Peoples talk, and indeed what every Body talked. I told him (a little haſtily) I ſhould deſire to talk no more about it, after I had aſſured him that for the ſame Reaſon I'd given before, ſuch diſcontent could not ſubſiſt in Numbers; and that if any ſuch Gentlemen were in the Service, who were otherwiſe inclined than their Duty ſhould enjoin 'em, they were very wiſe to keep their own Secret, for there muſt be as much Madneſs and Folly in the truſting one another upon ſuch an Account, as there would be Treachery and Villany in the Deſign, you'll not eaſily find Men ſo Mad now a days, ſays I, that's my Opinion.

Well my Dear Friend ſays he, I'll talk no more about it, I wiſh all the Succeſs in the World to the Army, and do to you if you continue in it, but then ſays he if you reſolve upon a Military Life, why don't you try for a better Poſt? A Company would be a pretty thing, and what any Man might accept of; but here a Man has no chance of getting ſuch a thing by Merit, if it was never ſo great; nor by Intereſt, unleſs his Fortunes are large enough by profuſe Prices to buy it without either. And if I was you, I ſhould rather chuſe to ſerve abroad a Year or two. For beſides the Advantages to your Health, which a

Foreign

Foreign Climate might afford, the Opportunities of riſing are vaſtly greater; and if a Man of Figure makes a Campaign in a foreign Country, and is known to have a Circumſtance and Character at home, he may be any thing, he may be what he will: And ſubjoin'd and ended with ſome Reflections on the Neglects we ſometimes met with here.

I anſwer'd him, my ill State of State of Health, had almoſt incapacitated me from any rural Courſe; I cou'd neither hunt nor drink; that this was a Life I very much liked; and the good Reception I met with from every body in the Regiment, had endeared me very much to it; that my only Ambition was to be a Colonel in it, which I muſt wait with Patience for, but that I hardly knew my own Mind yet in that Affair, but that as I was going down into the Country in a few Days, I ſhould be better able, when I had examined the Poſture of my Affairs there, to judge and to determine what State of Life would then beſt ſuit and beſt become my Fortunes.

Pray God, ſays he, you may do for the beſt, be it which way it will. It's my Fears, for ought I know, have made me thus fooliſh, and as I always had a very great Reſpect and Value for your Family, and am a little related to you. I could not help ſpeaking what came uppermoſt, when talking of theſe things. It's impertinent in me, ſays he, to adviſe you to leave the Army, or to adviſe any thing; but I ſhould be afraid of ſome Miſchiefs happening to you one way or other.

What Miſchiefs, Sir, ſays I, for God's ſake? I cannot perceive what 'tis ſhould attend me particularly. No, no, ſays he, not that at all: but between Friends, what I ſhould chiefly apprehend is from the curſed Diviſions amongſt the People, and amongſt the Great Men themſelves, that ſome damned Plot or other ſhould take place; e'gad, they are a hatching ſomething, Sir, as ſure as can be. I cannot believe it, ſays I, what Plot in God's Name can it be! You do not ſuſpect the blowing People up by Houſefulls, nor Aſſaſſinations, nor any of the old *Lancaſhire* Story, ſure! I thought they had been all out of Doors and done with long ago. Nay, God knows, ſays he, what it is, or where it is; nothing of Bloodſhed, I hope, I ſhould be very ſorry for any thing of Bloodſhed, (or Words to that Effect) but ſomething or other they are certainly a-doing, and I fancy you'll ſee ſomething of it very ſoon, if the Spirit of the People does not abate quickly. I fancy not, ſays I, I do not fancy any ſuch thing, I do not fancy it at all, and if it were not your Fancy, ſhould think it a very ſilly and a very ridiculous one; nor can I imagine what Intelligence could take ſuch place with you. Nay, ſays he, you miſtake me there, 'tis not from any Correſpondence or direct Intelligence to me, that I'm ſo ſcrupulous, but you know my Buſ'neſs lies with abundance of People, and with abundance of the beſt Rank, and I now and then hear what they ſay, and from ſuch things as a body may frequently pick up among great Perſonages, (with ſome of whom I have the Honour to be very well acquainted) I've ſometimes imployed a melancholly Minute, in collating and connecting Circumſtances, and 'faith, ſays he, they turn my Brain almoſt, I cannot tell what to make on't. Poh, Poh, ſays I, you're ſplenetick, Mr. *Layer*, you've either too much Faith, or too much Fear; I cannot tell which it is, and laughing off the Subject, made a Motion to take leave of him, and told him, in a joaking way, I hop'd a little more Time would ſettle his Brain, and help him to make nothing on't. He ſhak'd me very heartily by the Hand, you keep company, I perceive, ſays he, with but one Sett of People here, whilſt you are in the Army, which I look upon to be a great Misfortune; but when you come to give an opening to a more general Acquaintance, and hear what's ſaid on both ſides, you may alter your Opinion perhaps. As to that indeed, ſays I, I do not know what to ſay, I'm not ſo poſitive or incredulous, as to reſolve againſt Conviction; on the other ſide, not ſo eaſy of Faith, as to confide in all I hear.

Told me, he ſhould be glad to ſpend an Evening with me now and then at my return to Town; ask'd me whether I did not know ſuch and ſuch a Gentleman, and named the Names of two, or three, or four; (I cannot be poſitive who or how many, not then knowing the Perſons, or ever ſince recollecting what the Names were) I told him no; he ſaid they were very worthy honeſt Gentlemen, and did not know but I might know 'em. You know, ſays he, my Lord *North* and *Grey*; no really, Sir, ſays I, I do not know him neither: Oh, Lord, ſays he, I muſt bring you acquainted with my Lord *North* and *Grey*, he'll be very eaſily acquainted with you, and very glad of your Company, I'm ſure, he's a very good Client of mine. I told him, I ſuppoſed my Lord had no Knowledge of me, I

could have therefore no pretence to make a Viſit, or in any kind intrude myſelf where he was. To which he anſwered, that that ſignified very little, my not knowing him, but that he could aſſure me, as being a *Norfolk* Man, and well known to his Relations, the Family (*viz.* of *Norths*) at *Rougham*, he would make very much of me; and one thing I can tell you, ſays he, will make you ſoon acquainted, my Lord, was a Soldier himſelf, and can talk with you in your own way; and added, that he had been very brave, and had loſt an Arm (I think) or a Leg, in the Service. I told him, if my Lord had any Commands for me to *Rougham*, or elſewhere, (as I was going down) ſhould be proud to receive the Honour of them, and in that Caſe ſhould wait his Appointment; but I never heard any more of the Matter.

Juſt as I was going away he ſaid, well, my dear Sir, if I ſhould hear any more about this ſame Buſtle (or ſome ſuch expreſſions) you'll give me leave to write you my After-Thoughts; I told him, that indeed would be very kind. If you ſhould not approve them, or my way of reaſoning about them, ſays he, you'll have the Goodneſs to make a favourable Application, and may find ſome uſe to put a Sheet of Paper to, or burn it.

That too, ſays I, (after a little pauſing) might be complied with; but why, good Mr. *Layer*, if you ſhould have any Secrets, not fit for me to know, ſhould you trouble your ſelf to make me acquainted with them. For however eaſy you could be, in ſuch a Confidence, I ſhould be the direct reverſe. If they are Trifles I preſume you won't write, but then ſuppoſe they ſhould be of Conſequence, and ſuppoſe too that I had no other Honour to be concerned in ſuch a Caſe, but that of not betraying a Truſt you ſhould thereby repoſe in me, I ſhould ſtill be always very jealous of you, I ſhould have reaſon to think you'd cut my Throat, or poiſon, or ſome how deſtroy me, when you allowed your ſelf the Leiſure to reflect, not as proceeding from any Malice to me, but as the moſt probable Azylum of your own Security.

He laughed much at the Manner and Gravity of expreſſing it; but told me I was diverting in my Deſcriptions; that he had a great deal of Pleaſure in talking with me, and hoped for many further Opportunities.

At ſtepping into the Coach which waited for me at his Door: He told me the Gentleman I paſs'd by (with his Lady) in the Parlour, was my Lord *North* and *Grey*'s Chaplain - - - (*that was a Whiſper*) wiſhed me a good Journey down, and ſaid, if he could any ways be ſerviceable to me in his Capacity ſhould be very glad of it.

I am now to aſſure your Lordſhips, I have not once ſeen Mr. *Layer* ſince, or ever had, directly or indirectly, any Meſſage from, or Correſpondence or Acquaintance with, him ſince; and to the beſt of my Memory, that was the only time I had been in Company with him any where, ſince at *Ayliſham*, which I gave your Lordſhips an Account of, and which I think is about four (at leaſt three) Years ago: And that the Letter I mention to have received from him at the Tilt-yard Coffee-Houſe, was the only Letter I ever received from him in my whole Life.

P. S. I ſolemnly declare I never once ſaw him at my Tent, and that I never laid eyes on him ſince the Conference aforeſaid; and do really believe he never was there whatever he may pretend: if he was, the Tent and dining are ſo remarkable he cannot err in the Deſcription.

Eraſmus Earle.

The

The Examination of Chriſtopher Layer, *Eſq;*

THIS Examinant ſaith, that he having often viſited my Lord *Orrery*, and had ſome Diſcourſe with him concerning the Pretender; His Lordſhip declared, it was his Opinion, that the Pretender could never ſucceed here without a foreign Force; and ſome ſhort Time before the encamping the Troops, the ſaid Lord told this Examinant, that he was inform'd, the Lord *North* and *Grey*, and others, were going to do a raſh thing in favour of the Pretender. This Examinant ſaith, That being likewiſe acquainted with the ſaid Lord *North* and *Grey*, and having often viſited him, he hath heard the ſaid Lord ſay, that it was his Opinion, the Pretender might be reſtored by the People of *England*, without the Aſſiſtance of any foreign Force. This Examinant, in the frequent Viſits that he made to each of the ſaid two Lords, did obſerve, that this difference of Opinion cauſed a ſtrangeneſs between them, ſo that they ſpoke leſs kindly of one another than they uſed to do. This Examinant ſaith, That theſe Diſcourſes which he had with the ſaid two Lords, were previous to the encampment of the Troops. That this Examinant, in the beginning of *July* laſt, went down to *Norfolk*, and in his Way thither called upon my Lord *North* and *Grey* at *Epping*, where, in diſcourſing upon the encampment, the ſaid Lord *North* and *Grey* ſaid to this Examinant the Project was ſpoiled, but we ſhall have them again. This Examinant ſaith, That in his return from *Norfolk*, about the beginning of *Auguſt*, he call'd at the Lord *North* and *Grey*'s again, at *Epping*, who asking him, the Examinant, concerning the Temper of the Gentlemen of *Norfolk*; this Examinant ſaid, they were moſt of them *Jacobites*. The ſaid Examinant ask'd the ſaid Lord *North* and *Grey*, Whether the Pretender's Affairs was given up; the ſaid Lord anſwered, that he could not tell what to ſay to it; that by the Perſons whom he had employ'd to talk with the Officers of the Army, he found that the Officers could not truſt one another, tho' the Common Soldiers were well inclined. This Examinant further ſaith, That he has ſeen the Lord *Orrery* twice ſince *Auguſt*; and being ſhewn a Letter, which was ſeized among his, the Examinant's Papers, and being asked who was meant by *Digby*, mentioned in the ſaid Letter, does ſay, that General *Dillon* goes by the Name of *Digby*; and being further ask'd, how he came to know it, ſays, that he thinks he heard the Lord *Orrery* ſay ſo. This Examinant further ſaith, That he telling my Lord *Orrery*, that his Lordſhip was the Perſon who was to bring about the Good of the Nation, the ſaid Lord anſwered, that he feared nothing could be done; but the ſaid Lord further ſaid, that the Lord *Cowper* had told him, that Two hundred Tories, and Ninety Grumble-tonian Whigs, who are in the Houſe of Commons, would try their laſt Efforts.

B. 9.

The further Examination of Chriſtopher Layer, *Eſq;*

WHO being asked, Whether he had not endeavoured to corrupt ſome of the Officers in the Army, he anſwered in the Negative. Being asked, Whether he had not endeavoured to corrupt any of the Subaltern Officers, or Serjeants, or Common Soldiers, he anſwered, That he had endeavoured to ſound the Inclinations of two or three, either Serjeants or Common Soldiers, to ſee whether they ſtood well-affected to the Pretender's Intereſt; particularly, one Serjeant *Plunkett* belonging to the Garriſon of *Plymouth*, whom he had formerly ſeen at his, the Examinant's, Lodgings in *Great Queen-Street*; and meeting him about two Months ſince accidentally in *Lincolns-Inn Fields*, he enquired of him, the ſaid *Plunkett*, how the Soldiers liked their lying in Camp, and whether they had not forgot their old Maſter the Duke of *Ormond*; to which the ſaid *Plunkett* replied, That he believed they, meaning the Soldiers, would readily embrace him; the ſaid Examinant then gave him half a Crown to drink, the ſaid *Plunkett* often afterwards came to the Examinant's Houſe in *Southampton Buildings*, where he told him, the Examinant, that if the Pretender, and the the Duke of *Ormond* would come, they would find moſt of the Guards for them. That this Examinant grew uneaſy at the ſaid *Plunkett*'s coming ſo often to him, and frequently gave

him

him Money, to get rid of him; that the laſt Time the Examinant ſaw the ſaid *Plunket* was about a Fortnight ago.

The ſaid Examinant farther ſaith, That one who call'd himſelf *White*, a Serjeant of the Guards, came with Dr. *Murphy* to the *Fountain-Tavern*, as the Examinant thinks, in *Catherine-Street*, about ſix Weeks ago, and the ſaid *White* being ask'd by the Examinant, How they, meaning the Soldiers, liked being encamped ſo long, the ſaid *White* replied, That he ſhould be at leaſt twenty Pounds the worſe for it, and he believed it occaſioned a great deal of Diſaffection to the Government; that nothing farther paſſed that time; that another Day, about a Fortnight after, the Examinant met the ſaid *White* in St. *James*'s Park, (that he believes the ſaid *White* to be of the firſt Regiment of Guards) the Examinant ask'd him, If he knew Colonel *Duncomb*, the ſaid *White* replied, Do you mean *Duncomb* or *Buncomb*? And the Examinant ſaying, *Duncomb*, he, the ſaid *White*, ſaid, *Duncomb* was in *France*; to which the Examinant ſaid, It may be he was gone to fetch foreign Forces; the ſaid Serjeant *White* replied, There was no Occaſion for foreign Forces; for that if the Duke of *Ormond* comes alone it would be ſufficient. The Examinant then ask'd the ſaid *White*, What they meant to do; *White* anſwered, If any Officer would call them out, they, meaning the Soldiers, would declare for the Duke of *Ormond*, and find Ways to go to him. That ſome time after, the Examinant met the ſaid *White* again in *Hide-Park*; that at that time he ask'd the ſaid *White*, Whether my Lord *Cadogan* did not exerciſe them every Day pretty ſeverely? The ſaid *White* replied, That my Lord *Cadogan* was ſo ill beloved in the Camp, that he believed the Soldiers would ſhoot him, and that if he, meaning the Lord *Cadogan*, were killed, and the Duke of *Ormond* here, that they might over-run the Nation.

The ſaid Examinant going another day to the Camp to ſee his Couſin *Earle* in his Tent, he fell in company with one Serjeant *Slack*, or *Black*, or *Blake*, who ſhewed this Examinant the Way to Enſign *Earle*'s Tent; this Examinant in Civility gave the ſaid Serjeant a Pint of Wine, and asking him, How the Soldiers liked being ſo long in Camp, he replied, That it would be twenty Pounds out of his way, and that the Soldiers were highly diſſatisfied with ſtaying there ſo long; this Examinant heard the ſaid *Slack*, *Black* or *Blake*, ſay nothing farther. This Examinant being ask'd concerning Enſign *Earle*, his Couſin, does ſolemnly declare, that he does believe the ſaid *Earle* to be zealouſly well affected to the preſent Government. And being again asked concerning the ſaid Colonels, *Duncomb* or *Buncomb*, does declare, That he knows nothing of them. This Examinant being asked, How he came to fall in with theſe Serjeants, does anſwer, That it was out of Curioſity to ſee whether what the two Lords had told him of the Diſaffection of the Army to the preſent Government was well founded.

This Examinant doth own, That he hath told ſeveral People, that he believed there was a Scheme form'd here in Favour of the Pretender, but that he knoweth not the ſaid Scheme; that he told one *Fountain*, alias *Lynch*, that he, the Examinant, believed there was a Scheme; and farther told the ſaid *Fountain*, alias *Lynch*, that if any thing was to be done, there muſt certainly be a Declaration. The ſaid *Fountain*, alias *Lynch*, ask'd the Examinant, in what Form ſuch a Declaration ſhould be. The Examinant thereupon took a Paper out of his Pocket, and read to the ſaid *Fountain*, alias *Lynch*, ſome Lines which were taken out of the Prince of *Orange*'s Declaration, and which he had ſet down in a Paper of Memorandums. This Examinant ſaith, that it was at the *Green Man* at *Barnet*, that he read the ſaid Lines.

Capt. 19. *die Sept.* 1722. *Chriſtopher Layer.*
Coram me,
Carteret.

The

B. 10.

The Examination of Chriſtopher Layer, *Eſq; taken before a Committee of the Lords of the Council,* Sept. 21, 1722.

Preſent,

Duke of Roxburgh, *Earl* Cadogan, *Lord* Townſhend, } *Lord* Harcourt, *Lord* Carteret, *Mr. Chancellor of the* Exchequer.

THE Examinant ſaith, That the Lord *Orrery* ſaid the Nation was ruin'd, and nothing could ſave it but a Reſtoration; and that this was ſaid to him by Lord *Orrery* ſome time before the Encampment. The Examinant further ſaith, That Lord *Orrery* told him that the Lord *North* and *Grey*, Lord *Strafford*, and Sir *Harry Goring*, were going to do a raſh Thing in favour of the Pretender, which he, Lord *Orrery*, was ſorry for, becauſe it would prove abortive, and hinder the Succeſs of it another time. The Examinant further ſaith, That he had no Acquaintance with Lord *Orrery* till ſince his, the Examinant's, Return from *Rome*; that he was after his ſaid Return from *Rome* introduced to Lord *Orrery* by one *Thompſon*, Chaplain to the Dutcheſs of *Ormond*. This Examinant further ſaith, That my Lord *Orrery* then told him that he had a Curioſity to ſee him, having been informed that he was lately come from *Rome*. The Examinant further ſaith, That Lord *Orrery* enquired of him into the Pretender's Character and Behaviour; and this Examinant thereupon own'd to the Lord *Orrery*, That he, this Examinant, had been introduced to the Pretender, and gave an Account to Lord *Orrery* of all that had paſſed between him, the ſaid Examinant, and the Pretender.

The Examinant ſaith, That he had a Curioſity to get acquainted with the Lord *North* and *Grey*, Becauſe he had heard that he, Lord *North* and *Grey*, was a Jacobite; the Examinant being ask'd, From whom he had heard it, ſaid, From all the World, and that all the World knew it. Being ask'd, How he was introduced to the Lord *North*, he, the ſaid Examinant, ſaith, That he introduced himſelf to Lord *North*, taking an Occaſion ſo to do from a Caſe which he went to preſent him concerning a Cauſe depending laſt Winter in the Houſe of Lords, about the Lord *Kingſton* of *Ireland*'s Eſtate. The Examinant further ſaith, That he had acquainted Lord *North* and *Grey* with all that Lord *Orrery* had ſaid to him, concerning the Raſhneſs of the Deſign, which Lord *North* and others had in favour of the Pretender. The Examinant ſaid that Lord *North* reply'd, That Lord *Orrery* was a timorous Fellow, that he was always making Difficulties, and Schemes out of his own Brain. The Examinant ſaith, That this was previous to the Encampment. That from the time of his, the ſaid Examinant's, being firſt introduced to Lord *Orrery*, to the time of the ſaid Examinant's going into the Country, which was about the Beginning of *July*, he ſaw the Lord *Orrery* very often, at leaſt once a Fortnight. The Examinant ſaith, That in his Way to *Norfolk*, he went to Lord *North*'s, who told him that the Project was ſpoil'd by the Encampment, but a Time might once come again. This Examinant further ſaith, That upon Return from *Norfolk*, he call'd again at Lord *North*'s at *Epping*, and this Examinant then asked him, Whether the Chevalier's Affair was quite laid aſide; he, Lord *North*, anſwered, That he could not tell what to ſay to it; and on farther Diſcourſe, the ſaid Lord *North* ſaid, That by the Informations he had had, he believed the Common Soldiers of the Guards were well diſpoſed, as well as ſome of the Officers; but the Officers could not truſt one another.

The Examinant ſaying in the Courſe of this Examination, That he had done all he could to get into the Knowledge of the real Scheme, but could not find it out; and being asked, Whether he knew of any Scheme, ſaith, A Scheme conſiſts of Particulars, which he doth not know, as he muſt declare in Juſtice to the Lord *Orrery*'s Prudence; and being thereupon farther queſtion'd, Whether he did not believe that there was a Deſign form'd to bring in the Pretender this Summer, altho' he had not been acquainted with the particular Methods

by which it was to have been effected, he anſwered, That he believed there was, and that theſe Lords had ſuch an Intention this Summer.

Being further queſtioned, Whether he had ſeen my Lord *Orrery* ſince he, the ſaid Examinant, came to Town, he anſwered, That he had ſeen him twice; and upon his enquiring of Lord *Orrery*, What is now to be done, Lord *Orrery* ſaid, That he feared nothing could be done but in a Parliamentary Way, and that Lord *Orrery* ſaid Lord *Cowper* had told him, That there were two hundred Tories, and ninety angry Whigs who would make their utmoſt Effort.

Being asked, Whether he knew any body that went by the Name of *Rogers*, he anſwered, That Mr. *Plunkett* always made Uſe of that Name in *Italy*, and had kept that Name ever ſince; and that he believed he often wrote and ſign'd by that Name. Being asked, What Letters his Wife carried into *France*, and from whom, he confeſs'd, She carried a Letter from Mr. *Plunkett* to General *Dillon*. He ſaid, That Mr. *Plunkett* travelled with him into *Italy*, was with him at *Rome*, and came back with him.

Being ask'd what he knew about the Name of *Digby*, he anſwered, he heard at *Rome* that General *Dillon* went by that Name; and taking Occaſion to ask Lord *Orrery* after ſome Nick-names, he told him that General *Dillon* was call'd *Digby*.

B. 11.

Minutes of the Examination of Chriſtopher Layer, *taken before the Lords of the Committee of His Majeſty's moſt Honourable Privy Council the Firſt Day of* October, 1722.

BEing asked, Whether he knows any Place that *George Wilſon*, alias *Grey*, uſed to frequent? He ſays, he has ſeen him in other Places than at the Coffee-Houſe, late *Hamilton*'s. Being interrogated, Whether he has ſeen him in any great Perſon's Houſe? He anſwers in the Negative. Being asked, What Buſineſs the ſaid *Wilſon* was employed about, what he (the Examinant) employed him in? He ſays, He has declared all he knows, that he will make a general Confeſſion of all he knows; That this whole Projection was entirely his own; That being in diſcourſe with the Earl of *Orrery*, his Lordſhip ſaid nothing could relieve the Nation but a Reſtoration, and he would be glad if he could contribute to bring it about; that it muſt be done by Foreign Forces, and could be done no other way; That the Examinant often asked his Lordſhip, What Methods they had taken to procure them? His Lordſhip ſaid, The Regent was ſo perfidious he could not be truſted. The Examinant ſays, This was generally the Subject of their Diſcourſe; That Lord *Orrery* ſaid, They had Friends abroad that had made Application to the Regent for Aſſiſtance to bring about a Revolution; but he does not know whom his Lordſhip meant, General *Dillon* might be his Correſpondent for ought he knows. The Examinant ſays, It was a little after he was firſt acquainted with the Lord *Orrery*, that the ſaid Lord told him a Revolution could not be brought about without Foreign Forces. That the ſaid Lord ſent to ſpeak with him, and told him he heard he had been at *Rome*, and asked how all their Friends there did, the Examinant ſaying, He ſuppoſed his Lordſhip meant the Chevalier; Lord *Orrery* ſaid, Yes; the Examinant replied, He was well. Lord *Orrery* enquired about his Qualifications; they ſpoke in *French*. Lord *Orrery* asked, What was the Occaſion of his going? The Examinant anſwered, He had Buſineſs at *Venice*, and when he had done that, he went to *Rome*. That his Lordſhip asking how the Chevalier did? The Examinant anſwered, He was very well when he left him, and asked what Hopes there were? To which the ſaid Lord replied, There were Hopes, for all the Nation were generally for him, except thoſe who had Places or Money due to them from the Government.

That

That the *French* had made a Tool of him. The Examinant ſays, he viſited Lord *Orrery* ſeveral times; that the ſaid Lord told him, he heard that Lord *North* and *Grey*, Lord *Strafford*, Sir *Harry Goring*, and ſeveral others, he named more, but the Examinant remembers not whom, were going to do a raſh thing in favour of the Pretender; that it would come to nothing. The Examinant ſays, that the next time he ſaw the Lord *North*, he told him what Lord *Orrery* had ſaid; to which Lord *North* ſaid, he (meaning Lord *Orrery*) knew nothing and ſhould not know. That Lord *North* ſaid nothing could be done during the Encampment. That he preſs'd Lord *North* to tell him what they were going to do. That Lord *North* ſaid the Officers and Soldiers were well-inclined, but they could not agree among themſelves. The Examinant preſs'd his Lordſhip again, ſaying, if they were ſo inclined ſomething might be done, The ſaid Lord asked, How? was the Examinant a Soldier; his Lordſhip ſaid he knew what belonged to encamping. The Examinant then ask'd his Lordſhip to give him leave to draw up a Paper; and his Lordſhip ſaid he would be glad to ſee any thing of that ſort: this happened about three Weeks ago. The Examinant ſoon after told the ſaid Lord, he had drawn ſuch a Paper; Lord *North* ſaid it was impoſſible, as long as the Forces were encamp'd; the Examinant ſaid, he had drawn ſuch a thing, and would be glad to have his Lordſhip's Opinion; upon which the ſaid Lord told him, his Opinion in general was, that nothing could be done during the Encampment, and till the Camp broke up he would not hear of any thing. The Examinant being ask'd where *Wilſon* lives, ſays he does not know; being ask'd where he uſed to ſend to him? he anſwer'd, to *Howell's Coffeehouſe*: being ask'd whom he uſed to ſend? he anſwered, he went himſelf: being ask'd at what Hour? he ſaid, generally in an Evening: being ask'd what Places *Wilſon* uſed to go to afterwards? ſays, he does not know: the Examinant ſays, *Wilſon* is an old Man, wears always decent Cloaths, but no Sword: that he (the Examinant) told Lord *North*, that *Wilſon*, was a Fellow who had ſerv'd in the Army, had a general Acquaintance, and was fit to be employ'd, if his Lordſhip would make uſe of him; and Lord *North* ſaid, when he had occaſion he would employ him. The Examinant ſays, *Wilſon* gave him a Liſt of Names of Perſons he had ſpoken to; ſeveral Papers, containing Liſts of Names, being ſhewn to the Examinant, he ſays he had them all from *Wilſon*; other Papers of the ſame Nature, written in a different Hand, being ſhewn him, he ſays, they are his own Hand writing, taken from the other Papers that he ſaid he had from *Wilſon*. Being asked, when *Wilſon* gave him thoſe Names, what Account gave he of the Perſons? he anſwers, that *Wilſon* ſaid he had ſpoken to them, and that they were well inclined to do any thing their Officers would command them, and if any of their Officers, be who it would, ſhould call them out, they would obey. That he (*Wilſon*) ſaid, he had ſpoken to a great many of them; that he went frequently among them; that he knew the Serjeants and Soldiers were generally well inclined; that he treated them; that he went among them to ſound them how they ſtood affected to the Pretender's Intereſt. The Examinant ſays, *Wilſon* returned him ſeveral hundreds of Names more than are in thoſe Papers. That he (the Examinant) knows not one Officer himſelf. That as to the Officer who was to put himſelf on the Tower Gaurd, he (the Examinant) expected from Lord *North*, that he ſhould appoint one, but the ſaid Lord would not ſee his Scheme. The Examinant ſays, he talked to Lord *North*, that he ſhould be the General; that Lord *North* ſaid, he was not popular enough; that the Duke of *Ormond* would be fit for it if they had him here; his Lordſhip believed moſt of the the Soldiers would join him. The Examinant ſays, he does not remember to have heard among the *Jacobites*, that the Duke of *Ormond* was coming. The Examinant ſays, that upon his preſſing Lord *North* on this Head, telling him he was fitter for a General, and was popular; the ſaid Lord anſwered, no, the Duke of *Ormond* was the Man, he was the Soldiers

Darling.

Darling. The Examinant ſays, he often talked of this Affair to the Lord *North*, being induced ſo to do by the Impatience he obſerved in him, and in Lord *Orrery*, that ſomething ſhould be done. That he has heard that Lord *North* had a Commiſſion from the Pretender; that he was told ſo by Lord *Orrery*, who ſaid he believ'd it; that Lord *Orrery* ſaid ſo upon the Diſcourſe they had together as beforementioned, about the Poſſibility of doing the Buſineſs without foreign Forces; when Lord *Orrery* ſaid they were going to do a raſh thing; the Examinant ask'd his Lordſhip who was to have the chief Command, and Lord *Orrery* ſaid it was his Opinion Lord *North* and *Grey*, and that he had a Commiſſion. The Examinant ſays, he came from *Rome* in *July*, 1721. That after his Arrival he ſaw the Lord *Orrery*, but not till the Spring following; it was ſome Months after he came to Town: that Lord *Orrery* ask'd him to give an Account of the Pretender which he did. The Examinant ſays, he ſaw the Pretender at *Rome* ſeveral times, and had two private Conferences with him. The Examinant being asked, what he related to Lord *Orrery* of thoſe private Conferences? he ſays, that Lord *Orrery* ask'd him if he had any Recommendation from the Pretender to any Perſon; he anſwered no; his Lordſhip repeated that Queſtion twice or thrice, and told him he ſeemed to be an honeſt Man, and People of his Integrity ſhould always be welcom to him, whether they had any Credentials or no; the Examinant told his Lordſhip he had talked with the Pretender of the State of the Nation, and of the Diſcontents of thoſe who were Loſers by the *South-Sea*; that the Pretender ask'd him, if he knew any Perſons of Diſtinction who were in that Caſe, and he ſaid no, but there were many in his Intereſt, and he believed he could be ſerviceable, and he knew many Perſons of Eſtate, tho' not of Quality; that if his Majeſty (the Pretender) would give him any Token, he believed he could get Admittance to Perſons of Rank; that the Pretender ask'd him if he came at his own Expence, he anſwered in the Affirmative; the Pretender ſaid the Expence was great, it muſt coſt him 500 *l.* he ſaid about half as much; upon which the Pretender commended his Zeal; the Examinant ſaid he would be glad to ſerve his Majeſty if he would give him a Credential, but the Pretender ſcrupling to do that, the Examinant propoſed, that to give him a Credit among the *Jacobites*, the Queen (meaning the Pretender's Spouſe) ſhould ſtand Godmother to the Examinant's Daughter, as a Token of his Regard for the Examinant; the Pretender ſaid he would conſider of it, and ſend him Word; that Col. *Hayes* came to the Examinant and told him, the Queen would ſtand Godmother to his Child; the Examinant deſired Col. *Hayes* to ask who ſhould repreſent her? the Pretender ſent him word by *Hayes*, he would not name any one, but the Examinant muſt find out ſome body; the Examinant then propos'd, that the Pretender ſhould ſend ſome Token by him, and he would wait upon the Ducheſs of *Ormond*; the Pretender ſent out word, That if he did but carry her a Meſſage, and tell her the Duke of *Ormond* was well, and was gone to *Madrid*, he did not doubt but ſhe would do it. The Examinant then enquiring whom he ſhould ask to be Godfather, had Word brought him, that the King himſelf (meaning the Pretender) would ſtand with the Queen; and *Hayes* told the Examinant, that on his ſpeaking to the Dutcheſs of *Ormond*, without a Token ſhe would ſtand for the Queen. As for a Nobleman to repreſent the King, he muſt get one as he could. The Examinant ſays, He brought no Credentials nor Letters to any Body; that the Token he propoſed, was the Pretender's ſtanding Godfather to his Child. The Examinant ſays, He afterwards ſpoke to Sir *William Ellis*, an old Gentleman at the Pretender's Court, to whom he was recommended by Mr. *Kennedy*; That he had obſerved there were Diviſions at the Pretender's Court, and that *Kennedy* and *Hayes* had the chief Aſcendant; however, being chiefly acquainted with Sir *William Ellis*, who is an *Engliſhman*, and a Perſon of Years and Experience, he rather choſe to correſpond with him; That he asked him for an Addreſs, and *Ellis* ſaid, If the Examinant would write to him,

he

he would do any thing he could for his Service, and gave him Directions; That he wrote a Letter to Sir *William*, who anſwered it, ſubſcribing the Name of *Jones*. The Examinant ſays, He wrote to him, that if he could ſend him over ſome Receipts under the King's own Hand; he believed Money could be raiſed upon them for carrying on his Cauſe; and ſome time after Sir *William* ſent him ten blank Receipts; and if any Reſolution had been ſettled, the Examinant did propoſe to have tried his Friends, and engaged them to try theirs to raiſe Money on thoſe Receipts; That he told both the Earl of *Orrery* and the Lord *North* of his having thoſe Receipts; That he received them within this Month by the Poſt; That when he told thoſe Lords of it; they ſaid that was an idle Project of his, and no body would venture Money on them; that he juſtified his doing this by the like Method, having been uſed by King *Charles*, juſt before the Reſtoration; That Lord *Orrery* objected his being at Liberty to fill them up with what Sums he pleaſed, and the Examinant replied, One who had ſuch things in his Hands, muſt be entruſted with that Power: That Lord *North* adviſed him not to meddle with putting them off, it being a dangerous Thing. The Examinant being asked, Who are meant by *Burford* and his Club, for he had ſaid Lord *Orrery* was *Burford*, but who were his Club, he ſays, he does not know. Being asked, If he ever ſaw Lord *Orrery* with *Plunkett*? He anſwers in the Negative. Being asked, If *Ellis* in his Letters did ever deſire him to explain ſome Particulars he had formerly written about *Burford*? He anſwers, *Ellis* had given him a Liſt of Nick-names; that *Burford* was not in it; that he asked *Plunkett* by what Name he ſhould call Lord *Orrery*, and he told him *Burford*; that he alſo asked about three or four other Names; as, by what Name he ſhould call the Regent, and *Plunkett* ſaid *Steele*; what Name he ſhould uſe for General *Dillon*, and *Plunkett* told him *Digby*. The Examinant being ask'd, By what Name he deſcribed his Majeſty (King *George*) he anſwers, That he does not know. Being interrogated, What Account he ſent to *Ellis* of *Burford* and the Club? He ſays he wrote to him, that ſince his (the Examinant's) coming to *England*, he had got acquainted with Lord *Orrery*, and had asked him to ſtand Godfather, which his Lordſhip refuſed. Being asked, What is meant by the Rental mentioned in the Correſpondence between him and *Ellis*? He ſays it is the Liſt of Nick-names *Ellis* gave him, which is an old one uſed before the *Preſton* Rebellion; for the *Scots* of the Pretender's Council have now invented a new one on purpoſe to cut out *Ellis* from the Correſpondence. It being obſerved to him that Mr. *Carteret*, Mr. *Galfridus Walpole*, and others, were deſcribed in that Rental, or Liſt, by their Employments, which they had not at that time, before the ſaid Rebellion. He ſays he applied to *Plunkett* for ſuch Names as were not in the ſaid old Liſt. Being interrogated concerning the following Nick-Names, he ſays that *Simmons*, or *Simms*, is Lord *North* and *Grey*, the Little Soldier, is Lord *Londonderry*, Mrs. *Skinder* is Mrs. *Hughes*, Nurſe to the Pretender's Son, *St. John*, is the Pretender; That all thoſe Names which are in a ſeparate Piece of Paper now produced, were told him by *Plunkett*; That the Deſcription of *Simms* in *Ellis*'s Letter now produced, is a ſham way of Writing. Being asked what the Buſineſs was that he wrote relating to *Burford*, which *Ellis* did not underſtand? He ſays, He wrote to the Pretender, that he had got acquainted with *Burford*; that he found him devoted to his Intereſt; but he was timorous, and would not enter into any Schemes but what were his own; That he wrote in obſcure Terms. Being asked to explain what is ſaid in one of his Letters of ſending Stockings to the Chevalier? He ſays, The Meaning is literal, and that he did ſend Stockings both to him and his Spouſe: He ſays the Subſtance of the Letter which was not underſtood was, That he had asked *Burford* to ſtand with the Ducheſs of *Ormond*, but he refus'd; that he (*Burford*) was

devoted to the Pretender's Intereſt, but timorous, and thought nothing could be done without Foreign Forces. The Examinant ſays, The Lord *North* and *Grey* did ſtand for the Chevalier Godfather to his Daughter, knowing that he thus ſtood for the Chevalier; that the Ducheſs of *Ormond*'s Chaplain chriſtned the Child, whoſe Name (the Chaplain's) is *Thompſon*; that no body was preſent at the Chriſtening but the ſaid *Thompſon*, the ſaid Ducheſs, Lord *North* and *Grey*, the Examinant and his Wife; that a Gentlewoman was there at whoſe Houſe it was performed, but ſhe was not in the Room. The Examinant ſays, He wrote to *Ellis* of his having got acquainted with Lord *Orrery* and Lord *North*, and the latter ſtanding Godfather; that he found them both well-diſpoſed to the Pretender, but differing in Notions; and that they would never agree in any Scheme; That Lord *Orrery* had told him, Applications had been made to the Regent, who might be brought to wink at any thing; but ſaid at the ſame time, He was not to be truſted. The Examinant ſays, *Plunket* told him the Earl of *Orrery* was at the Head of a Tory-Club, of which were Lord *Strafford*, Lord *North* and *Grey*, Lord *Scarſdale*, Lord *Bathurſt*, Mr. [illegible], Mr. *Hutchinſon*. Being asked, How often this Club meets, and where? He ſays he knows not; he thinks he has heard that the Biſhop of *Rocheſter* was of this Club. Being asked, When he ſent the Account above concerning Lord *Orrery*? He anſwers, That he believes it was in *July* laſt; that the Examinant apprehended all Lord *Orrery* was doing amounted to nothing, and he wrote accordingly, adding, that if they had any thing to expect, it muſt be from Lord *North* and *Grey*. The Examinant ſays, That before he had ever ſeen Lord *Orrery*, he ſent to him by *Thompſon* to deſire his Lordſhip would ſtand Godfather for the Pretender, and the ſaid Lord refus'd to ſtand, but deſir'd to ſee him: And thus began his Acquaintance with Lord *Orrery*, whom he knew not, nor Lord *Orrery* him, till then: That *Thompſon* is acquainted with Lord *Orrery*; and the Examinant asking him if he knew any Lord that would ſtand Godfather for the Pretender, *Thompſon* propoſed Lord *Orrery*; That the Anſwer *Thompſon* brought was, that the ſaid Lord would firſt ſee if the Dutcheſs would ſtand or not; and yet when his Lordſhip was made ſenſible that ſhe would, he refuſed to do it; That after Lord *Orrery* had heard that the Examinant had got it done by another Hand, he ſent for him by *Thompſon*, and made Excuſes to him, and ſo they fell into Diſcourſe; that Lord *Orrery* told him he was ſorry he had denied him. The Examinant owns, He formerly told the Lords of the Committee of Council, That he believed there was a Scheme, and in Juſtice to Lord *Orrery*'s Prudence, he muſt declare that he knew not the Particulars. The Examinant ſays ſo ſtill; he does not doubt but Lord *Orrery* and Lord *North* had a Scheme; he believes that both are the Pretender's Friends, but had different Schemes. Being asked, If he ſhewed his Scheme to any Body? He ſays, Yes, he ſhewed the Heads of it to *Wilſon*, asking him, Whether he thought it would do. Being asked, Whether *Wilſon* told him ſuch Perſons (200 Soldiers, *&c.*) had been ſpoken to and were ready? He anſwers in the Affirmative. Being ask'd, What ſort of Man this *Wilſon* is? He ſays he ſeems to be between fifty and ſixty Years of Age; that he takes him to be a *Yorkſhire* Man; that he is an old, grave Man, middle ſized, neither fat nor lean, wears his own black Hair, with ſome grew Hairs among them; that he was recommended as a Man of Integrity by *Murphy* and *Plunkett*. The Examinant being asked, Whether he has ſeen any Declarations? Anſwers, No, he knows of none, but part of one which he drew himſelf. Being interrogated, Whether he knows of none at this time that are drawn and perfect? He ſays, Yes, there was a Declaration. Being ask'd, Where it is? He ſays, he believes *Wilſon* has it. Being asked, Where *Wilſon* had it? He ſays, he did ſhew it to *Wilſon*; that he (the Examinant) drew the Heads of it, and one Mr. *Mackenzie* put it into Form,

from

from the Hints the Examinant gave him; which *Mackenzie* is a *Scots* Gen[tle]man, and was recommended to him by one *Williams*, a Nonjuring Clergyman, who lives in *Thavies Inn*. Being asked, Who ſaw the Declaration beſides himſelf, *Wilſon*, and *Mackenzie*? He ſays, he read part of it to one *Lynch*, and that he ſhewed it to none but thoſe beforenamed; that he read it to *Lynch* at the *Green Man*, when they were going to Lord *North*'s. Being ask'd, if he did not ſhew it to Lord *North*, he ſays it was only the Heads, and that he did ſhew them to the Lord *North*; being ask'd what his Lordſhip ſaid, he anſwers, That his Lordſhip told him, he might keep his Heads and Schemes to himſelf, for there was nothing to be done. Being ask'd if Lord *North* ſaid that after the Encampment there was Hopes; he anſwers, yes, he ſaid if any thing could be done, it would be then; that it was his Lordſhip's Opinion, as he ſaid, the Buſineſs might be done without Foreign Forces, after the Encampment; it might be done by the People of *England*. The Examinant ſays, Soon after he came to his Lordſhip's Houſe, he asked him to walk in the Garden, and there told him, It was his (the Examinant's) Opinion ſomething might be done during the Encampment; and he was drawing Heads in order to it, a Declaration being neceſſary; then offered the Heads to Lord *North*, who juſt look'd upon the Paper, and ſtill inſiſted that nothing could be done. The Examinant ſays, He carried *Lynch* to Lord *North* as a Soldier proper to be employed for the Pretender, ſaying, He would do any thing his Lordſhip would have him, if there ſhould be a Riſing, that he was fit to ſend with a Party to ſeize any particular Perſon; the Examinant ſays, that *Lynch* having told him he would ſeize the Earl of *Cadogan*, he (the Examinant) carried *Lynch* down to Lord *North*'s, and recommended him as proper for ſuch an Attempt. The Examinant ſays, he always recommended to Lord *North* the forming of a Scheme, without which nothing could be done; but his Lordſhip ſaid, there was time enough for that. The Examinant ſays, he had before hand propoſed to Lord *North* the carrying *Lynch* to him; that his Lordſhip made a Difficulty of ſeeing him; that the Examinant inſiſted upon *Lynch*'s being an honeſt Man, fit to be employ'd in an Inſurrection, and that he was impatient to ſee his Lordſhip, the Examinant having told him, his Lordſhip was at the Head of thoſe Deſigns; That Lord *North* would not talk with him; That *Lynch* lying at his Lordſhip's Houſe that Night, and dined there the next Day; that the Examinant introduced *Lynch* to Lord *North*, who was civil to him; that in their Journey thither they carried a double barrell'd Gun belonging to *Lynch*, the Examinant having ſpoken to him to carry Arms for fear of being robb'd; that Lord *North* did not diſlike a Scheme in general, but diſapproved the Examinant's Scheme; that when his Lordſhip, the Examinant, and *Lynch* were together, they had no Diſcourſe, only drinking Healths, *viz.* the King's, the Queen's, and the Prince's, (meaning the Pretender's, his Spouſe's, and Son's) which Healths Lord *North* began. The Examinant being ask'd, what he did with 40 or 50 Cartridges ready charged, that were found in his Houſe, and who prepared them? he ſays they were made up by *Bowers*, his Gunſmith, and there had happened any Diſturbance in the Nation, he ſhould have had occaſion for them. Being asked if he has heard of Arms lodged in *Weſtminſter*, and if he knows where? (the Scheme, in his own Hand-writing, being at the ſame time ſhewn him, which refers to Arms *that are there lodged*) he ſays he ſhould have wrote, *that ſhould be there lodged*. Being asked if he knows of any that were provided? he ſays he did ſuppoſe they had Arms ready, and that if Lord *North* made any Buſtle he would have Arms ready. That one Day, when the Examinant dined with Lord *North*, a Citizen came in after Dinner, for which his Lordſhip made an Excuſe, and deſired the Examinant not to ſay any thing before him, for his Lordſhip did not care to talk when there were two Perſons preſent. That after drinking ſuch Healths as abovemention'd, this Citizen ſaying, *When the Weſtminſter Mob were up, if*

they

they had had Arms! Lord *North* interrupted him, and ſaid, Don't talk; you are a Citizen; you know there are no Arms; That the Man inſiſted there were 5000 Arms ready in the City. That this Citizen is a little crooked, and his Name is *Green*; The Examinant ſays, he askd' one of Lord *North*'s Servants, who this Man was? that talked of 5000 Arms and 7000 Arms; and the Servant replied, he was a forward Man, and knew his (the Servant's) Lord would keep no Company but what were honeſt. The Examinant ſays, this *Green* is a Gunſmith, and lives in *Tower-ſtreet*. The Examinant being asked if he knows of no Arms? He ſays not, but he apprehends there were Arms provided, but he does not know where they were lodged, or in what particular Perſon's Care they are. Being asked whether he knows of any Subſcription, or Contribution, to make a Fund for this Service? He ſays no; he heard Lord *North* ſay, he did believe there were People would give Money; that it was when they talked of the Receipts abovemention'd, his Lordſhip ſaid there would be no need of them; that there would be no want of Money, if they came to Buſineſs. The Examinant being asked *Mackenzie*'s Chriſtian Name? ſays it is *Roderick*; that he has always been eſteemed of that Party; that he (the Examinant) has known him long, having been firſt introduced into his Acquaintance by Lord *Fingal* and Mr. *Williams*, who commended him as a very ingenious Man, who had wrote ſeveral things relating to the *Darien* Affair; that he ſaw him about three Weeks ago. The Examinant ſays, he does not care to ſay any thing in prejudice of other People, which make theſe things come ſo hard from him: Upon which it was repeated to him, that it is not expected or deſired he ſhould ſay any thing but what is exactly true. The Examinant being asked, What Meſſage that was he ſent by his Footman when he was ſeized? He ſays he bid him go and acquaint the Gentleman, with whom he had been 15 Miles out of Town, that he was taken up; by which Gentleman he meant Lord *North*; for he thought it reaſonable to ſend Lord *North* that Notice, apprehending the Government would ſeize Lord *North* immediately, becauſe of what had paſt between them, and of his Lordſhip's being often in the Examinant's Company. The Examinant further ſays, that Lord *North* told him, Arms would not be wanting, nor Money would not be wanting. Being ask'd, Whether he did never go between Lord *Orrery* and Lord *North*? He ſays he never paſs'd as a Meſſenger between them; That he did tell Lord *North* what he heard Lord *Orrery* ſay, but never told Lord *Orrery* what he heard Lord *North* ſay. The Examinant ſays, Lord *North* told him, If there be a Riſing, you ſhall not want Men, or Money, or Arms. Being ask'd who is the truſty Officer, mention'd in his Scheme; he ſays he knows not; and that when he propoſed his Scheme, he depended on Lord *North* to engage the Officers.

Examination of Aaron Thompſon, *Clerk, living in* Madox-Street *near* Hanover-Square;

WHO ſays, that he has been acquainted with Mr. *Chriſtopher Layer* ever ſince the Beginning of *February* laſt was Twelvemonth, as he beſt remembers: That about the End of the next Month *Layer* told the Examinant, he was to go beyond Sea to *Bruſſels*; and the Examinant has been inform'd, that he did go beyond Sea the laſt Year; but whither, he does not certainly know: That the Examinant did not ſee the ſaid *Layer* from the time he told him he was to go to *Bruſſels*, till the Month of *November* laſt: That the firſt time the Examinant ſaw *Layer* in the ſaid Month of *November*, *Layer* told him his Wife was brought to bed, and had ask'd the Dutcheſs of *Ormonde* to be Godmother, to which ſhe had conſented: That he was at a loſs for a Perſon of equal Rank to ſtand with her, having but little Acquaintance among the Nobility; and deſir'd the Examinant to employ his Intereſt among his Acquaintance to procure him that Favour. The Examinant ſays, there being no body to whom he could preſume to apply directly, he deſir'd Mr. *Swordfeger*, his intimate Acquaintance, who is Secretary to Lord *Orrery*, to ſpeak to his ſaid Lord, and deſire that Favour of him, being to oblige a Perſon from whom the Examinant had receiv'd great Favours: That ſome time after meeting Mr. *Swordfeger*, he told the Examinant, that his Lord, being abſolutely a Stranger to Mr. *Layer*, deſir'd to be excus'd. The Examinant ſays, the Chriſtening of Mr. *Layer*'s Child remain'd in ſuſpence till about *April* laſt; which was occaſion'd, partly by the Indiſpoſition of the Dutcheſs of *Ormonde*, and partly by his want of a Godfather of a ſuitable Quality to her Grace's: That about *April* laſt the Examinant receiv'd notice from Mr. *Layer* to be at *Chelſea* at a *China*-Shop, a little beyond *Paradiſe-Row*, to chriſten his Child; whither he went accordingly, and found at the ſaid Houſe a Perſon at dinner with Mr. *Layer*, with whom the Examinant was not acquainted, but he found afterwards it was the Lord *North* and *Grey*, and another Perſon who lodg'd in the ſaid Houſe, whoſe Name the Examinant believes was Mrs. *Fox*: That about two Hours after the Examinant's Arrival there, being about Five in the Afternoon, the Dutcheſs of *Ormonde* came, and then the Baptiſm was perform'd by the Examinant, the ſaid Lord *North* and *Grey* being Godfather, and the ſaid Dutcheſs of *Ormonde* and Mrs. *Fox* being Godmothers; and the Child being a Girl, was named *Mary Clementina*: That there was preſent at the Chriſtening (beſides thoſe above-nam'd) Mr. *Layer* and his Wife, and the Examinant believes, the Child's Nurſe, and no body elſe. The Examinant ſays, he did not in the leaſt apprehend, that the ſaid Lord, or the ſaid Dutcheſs did ſtand as Proxies for any other Godfather or Godmother, or were reputed ſo to do. The Examinant ſays, he never had any Converſation with the Lord *Orrery*, and never ſpoke to him but once, and that in publick Company at his Lordſhip's own Houſe, upon the occaſion of chriſtening a Child of Mr. *Swordfeger*'s. The Examinant ſays, that about *February* laſt, as he believes, Mr. *Swordfeger* and Mr. *Layer* met together accidentally at the Examinant's Chamber at *Burlington-Houſe*, and by that means he believes they became acquainted together; but what might be the Conſequence of that Acquaintance, the Examinant does not know: That the Examinant at that time told Mr. *Swordfeger*, That was the Gentleman (ſhewing him Mr. *Layer*) in whoſe behalf he had deſir'd the Favour of Lord *Orrery*'s ſtanding Godfather; but the Examinant does not remember what elſe was the Subject of their Diſcourſe. The Examinant ſays, he never introduc'd the ſaid *Layer* to the Earl of *Orrery*, nor ever brought him any Meſſage from the ſaid Earl, or any other Perſon by his Appointment to attend his Lordſhip.

Aaron Thompſon.

Capt. 3° *die Octobris*, 1722.
Coram me
Ch. Delafaye.

B. 13.

The Depoſition of Mr. Charles Jacobs, *taken at* Yarmouth *in the Iſle of* Wight *in the County of* Southampton, *the 24th Day of* September 1722. *before me* Anthony Morgan, *Eſq; Lieutenant-Governour of the ſaid Iſle,* (viz.)

THIS Deponent *Charles Jacobs,* maketh Oath, that he took three Gentlemen unknown by Name to him, on board his Veſſel *Happy Return* (whereof this Deponent is Maſter) in *Stokes-Bay,* about 12 aclock at Night on *Saturday* laſt, the ſame Gentlemen, as this Deponent ſuppoſes, he ſaw in *Portſmouth,* in the Street over-againſt the *Red Lion,* about Three of the clock the ſame Day: The ſaid Gentlemen deſir'd him, this Deponent, to carry them to the ſaid Iſle of *Wight* (to *Cowes,*) but it being calm, he drove paſt *Cowes.* They then ask'd this Deponent, to what Place they might go to then? He anſwer'd, they might ſave Tide to *Yarmouth.* They then asked this Deponent, what Houſes of Entertainment were there? This Deponent deſired to know of them, whether they meant Publick or Private? The ſaid, Private: Whereupon he, this Deponent, recommended Colonel *Holmes's* [illegible] coming on ſhore about 8 or 9 of the clock on *Sunday*-Morning laſt, they went to the Houſe of the ſaid Colonel *Holmes.* In the Afternoon they propoſed to him, this Deponent, to go to *Portſmouth,* and ſaid, they would take Coach thence to *London.* About 9 or 10 of the Clock laſt Night, he took them on Board in order to ſail to *Portſmouth.*

Charles Jacobs.

Jurat coram me
Anth. Morgan.

B. 14.

The Depoſition of William Corke *of* Weſt Cowes *in the Iſle of* Wight *in the County of* Southampton, *Mariner; taken at* Yarmouth *in the Iſle and County aforeſaid, the 24th Day of* September, 1722. *before me* Anthony Morgan, *Eſq; Lieutenant-Governour of the ſaid Iſle,* (viz.)

THIS Deponent on this Oath, ſaith, That he asked *John Quee,* Mate to Mr. *Charles Jacobs's* Sloop, whether he was going over; for that he was going alſo, and ſhould be glad with his Company. The ſaid *John Quee* ſaid, he did not know whither he was going; but believ'd they were going to *Cherbourg* or *Havre de Grace;* and that if the Wind was South-Weſt, they ſhould reach *Havre de Grace.*

William Corke.

Jurat coram me die
& anno ſupradict.
Anth. Morgan.

The

The further Depoſition of William Corke, *of* Weſt-Cowes *in the Iſle of* Wight, *Mariner*;

WHO ſays, That on *Sunday* the 23d of *September* laſt, about Eight in the Morning, the Deponent with his Sloop lying in *Yarmouth*-Road, bound to St. *Malo* in *France*, a Sloop belonging to *Cowes* aforeſaid, of which Mr. *Charles Jacobs* is Owner and Maſter, (having lately bought her of Mr. *Boyſe* of *Stokes-Bay*, and Mr. *Hatch* of the ſaid Place) came to an Anchor near the Deponent: That ſoon after the Deponent meeting on Shore with *John Quee*, the ſaid *Jacobs*'s Mate, ask'd him if they were going over to *France*; who anſwer'd, that he could not tell whither they were going, but he thought it was to *Cherbourg* or *Havre de Grace*: That about 10 of the Clock on *Sunday*-night *Jacobs* weighed Anchor, at which time there was little or no Wind; but the Tide ſerved to carry him without the Iſland off to Sea, which was his proper Courſe for going to *France*, but directly contrary to his going to *Portſmouth*: That about Six Weeks ago, one *Aaron* a Native of St. *Malo*, who had been a Sea-Man on board *Jacobs*'s Sloop, but was diſcharged, having deſired the Deponent to give him his Paſſage home, the Deponent did ſo; and in their Paſſage, they diſcourſing together of what had happen'd to Lord *North* and *Grey*, of his being ſeized on board *Jacobs*'s Sloop; *Aaron* told the Deponent, he had heard the ſaid Lord, when he was in *Jacobs*'s Cabin, ask the ſaid *Jacobs* what kind of Living there was at *Cherbourg*.

William Corke.

Jurat. 20°. *die Novembris* 1722.
Coram me
Ch. Delafaye.

B. 16.

The Depoſition of Samuel Mitchell, *of* Yarmouth *in the Iſle of* Wight, *Gardener*;

WHO ſays, That on *Sunday*-Morning laſt, about 8 o'Clock, going out to walk upon the *Key* there, as he frequently does, he obſerved there a Yacht, commanded by one *Jacobs*, and belonging to Mr. *Boyſe* who lives in *Stokes-Bay*, a noted Smugler, and generally known to be diſaffected to his Majeſty's Government: That enquiring what ſhe came there for, he was inform'd, that ſhe had brought Three Perſons, who landed very early in the Morning and went to Colonel *Holmes*'s, whoſe Houſe is over againſt the Deponent's: That the Deponent miſtruſting they were Perſons diſaffected, went and gave notice of it to Colonel *Morgan*, Lieutenant-Governour of the Iſle of *Wight*; who thereupon gave Orders to his Son, and to Captain *Hurry* to go on Board the *Bolton*-Yacht, which lay near the other Yacht, in order to ſecure them when they ſhould return on Board: The Deponent then returned home, and watch'd if he could ſee the Perſons who were gone to Col. *Holmes*'s as beforemention'd, but they kept very Private, never appearing in the Hall or in any of the Fro[illegible] Rooms of the ſaid Col. *Holmes*'s Houſe. A little paſt Ten at Night, the ſaid Three Perſons came out in the moſt private manner, without any Light, being accompany'd by Col. *Holmes*, who ſaw them into the Boat, and the Deponent follow'd them, and took particular Notice that they us'd no Ceremony nor took Leave at parting; which he judg'd to be for the greater Privacy, and it increaſed his Suſpicion that they were upon ſome ill Deſign. The Deponent then got into his own Boat, which lay near the Key, with Intention to have gone on Board the *Bolton*-Yacht, to give Notice to Mr. *Morgan* and Capt. *Hurry*; but by that time he could come up with them, they were got on Board *Jacobs*'s Yacht, on Board which the Deponent went alſo, and there heard the ſaid Mr. *Morgan* and Capt. *Hurry* examine the Three Perſons abovemention'd, one of which own'd himſelf to be the Lord *North* and *Grey*: The Deponent met on Board the ſaid *Jacobs*'s Yacht one *Corke* (Maſter of a little Smack that lay in the Road), who, as the Deponent has been inform'd, had carry'd thither from Col. *Holmes*'s a Pye, and 8 or 10 Bottles of Liquor, which *Corke* told the Deponent that he had nick'd them, for they (meaning the Lord *North* and *Grey*,

and

B. 16.

and thoſe with him) were certainly diſaffected Perſons going to *France*: For the Mate of the ſaid Yacht had told him (*Corke*) they were to go to any Port of *France* they could make. The Deponent ſays, the ſaid Lord, and thoſe with him when they were ſeized, as before-mentioned, pretended they were going back to *Portſmouth*; but that the ſame is highly improbable, for that the Wind and Tide were both contrary to their going thither; but were very fair for paſſing thro' the *Needles*, which was their Courſe out to Sea.

Samuel Mitchell.

Jurat 25° *die Septembris*, 1722.
Coram me
Ch. Delafaye.

B. 17.

The further Depoſition of Samuel Mitchell *of* Yarmouth, *in the Iſle of* Wight, *Gardener;*

WHO ſays, That on *Monday* the 24th of *September* laſt he came from *Yarmouth* aforeſaid, on board the *Bolton*-Yacht, in company with the Lord *North* and *Grey*, Colonel *Morgan*, Captain *Boning*, who had been ſeiz'd with the ſaid Lord, and his Lordſhip's *Valet de Chambre*: That they put into *Cowes*; from whence the Deponent being charged with Diſpatches from Colonel *Morgan* to my Lord *Cadogan*, and from the ſaid Lord *North* and *Grey* to my Lord *Townſhend*, came over in a Wherry to *Portſmouth*; as did alſo the ſaid Captain *Boning*, pretending to come up to the Secretaries of State, to give them an account of what related to Lord *North* and *Grey*, and ſhew his Innocency: That they landed at *Portſmouth* about Ten aclock on *Monday* Night, and the Deponent, with the ſaid *Boning*, took Poſt-Horſes, and rode together as far as *Petersfield*; but the ſaid *Boning* pretended, he was ſo ſore, he could ride no further, and had a great Charge of Money and a Gold-Watch, which, if he ſhould loſe, the ſaid Lord would not make him ſatisfaction; and ſhewed the Deponent a Purſe that appeared to be very full; ſo the Deponent left him behind, and proceeded on his Journey to Town: That when the Deponent came lately up to Town, calling at the ſame Inn where he had been before, at *Petersfield*, the Inn-keeper told him, that *Boning*, notwithſtanding what he pretended of his Soreneſs and Fatigue, as is above-related, did at that time in half an hour after the Deponent was come away, take freſh Poſt-Horſes, and purſue his Journey towards *London*, by a different Road from that which the Deponent had taken.

Samuel Mitchell.

Jurat 20° *die Novembris*, 1722.
Coram me
Ch. Delafaye.

B. 18.

The Examination of Hugh Floyd, *Servant to the Right Honourable* William, *Lord* North *and* Grey, *taken upon Oath, before a Committee of Lords of his Majeſty's moſt Honourable Privy-Council*, Sept. 29. 1722.

WHO ſays, That on *Wedneſday* laſt was Se'night, about One in the Afternoon, his ſaid Lord came to Town from his Lordſhip's Houſe at *Epping*, being accompany'd by the Examinant: That his Lordſhip came in his Chaiſe, and did not go to his own Houſe, but to the *King's Arms* in *Paul's* Church-Yard, whither he had ſent the Examinant beforehand to beſpeak a Dinner: That his Lordſhip was to meet Captain *Boning* there; but the Examinant not ſtaying to wait on his Lord at Dinner, nor to dine there, he does not know what Company might dine there that Day with his Lord: That he ſaw no body beſides Captain *Boning*: That his Lord told him (the Examinant) he might go where he would till Four aclock on *Friday*-Morning, at which time he ſhould meet him at *Pickadilly* over-againſt St. *James's* Church: That he does not know whether his Lord lay at home that Night or the next, (*viz. Wedneſday* or *Thurſday*) for he did not ſee him, or undreſs him thoſe two Nights: That he was

at

at his Lord's ſome part of the Day thoſe two Days, but did not ſee his Lord till the *Friday* Morning aforeſaid: That on the ſaid *Friday* Morning he did, according to Order, wait for his Lord in *Pickadilly*, with his Lordſhip's Cloak-Bag, and in it a Dozen of Shirts, and two or three Pair of Stockings, his Lordſhip having order'd him to bring ſome Linnen; and according to Appointment his Lord came, who was accompany'd by Capt. *Boning*, and in a hir'd Coach with Six Horſes, without any Servant of his own attending him: That all the time the Examinant has lived with his Lordſhip, (which is about Nine Months) he has not known him to travel with a hir'd Coach and Six, or without Servants attending him: That he does not know who owned the ſaid Coach, who drove it, or of whom it was hired: That the Examinant's Lord took him up, and bid the Coachman drive to *Kenſington*, and there bid him drive to *Brenteford*, and ſo the Coachman was order'd to drive from Place to Place, ſometimes by the Lord *North* and *Grey*, and ſometimes by Capt. *Boning*; but the Examinant does not remember the Names of the Places: That they went about 15 or 20 Miles before they Baited, which they did at a Publick Houſe, and at Night they lay at another; but he cannot tell the Places, and did not enquire, his Lord having order'd him to have nothing to ſay to any Body, and to take no Notice that he was Travelling with him; only the Examinant recollects, that once his Lord asked the Coachman which was the next Town, and the Coachman anſwer'd *Egham*; and that they went over a Wild Heathy Country. The Examinant ſays, It was about Eight at Night, as near as he can gueſs, when they arrived at the Place where they lay: That at the firſt Baiting-Place they ſtay'd about an Hour and Half or Two Hours; and that no Body met his Lordſhip on the Road.

The Examinant ſays, That the next Morning about 5 o'Clock they ſet out on Horſe-back, Capt. *Boning* having beſpoke 3 Horſes and a Guide, which were procur'd by the People of the Inn where they lay: That they rode without Boots, his Lord having neither a Saddle of his own nor Boots, but only Woollen Stockings; and his Lord's Piſtols were put up in his Cloak-Bag; Capt. *Boning* likewiſe put up his Piſtols in his Cloak-Bag: That they went thro' that Day's Journey without baiting, which he believes might be about 20 Miles, to the Place where they took Shipping (being as the People ſaid Two or Three Miles from *Portſmouth*); and arriving at the ſaid Place about 4 or 5 in the Evening, they went to a great Merchant's Houſe: That near the End of that Day's Journey they had rid over a Bridge that is a-croſs an Arm of the Sea: That they ſtaid at the ſaid Merchant's about Four Hours, where his Lord ſpent that time in Drinking and Taſting Wines, and his Lordſhip ſaid he had bought ſome Wine there; and about 9 at Night they went on Board a little Yacht, and he laid down there in the Hold: The next Morning they ſaw a Town, which the Examinant was told was *Yarmouth*; he did not hear that they had paſs'd beyond any other Place, as beyond *Cowes*. The Examinant ſays, That on the ſaid Morning, being *Sunday*, after Sun-riſing, about 8 or 9 o'Clock, they Landed at *Yarmouth* and went to Colonel *Holmes's*, where they Dined: That the Captain of the Yacht coming and telling Capt. *Boning* that the Tide ſerved for *Portſmouth*, and deſiring him to tell the Lord *North* and *Grey* ſo, his Lordſhip, Capt. *Boning*, and the Examinant came away from Col. *Holmes's* in the Night; Col. *Holmes* waiting on his Lordſhip to the Water-ſide, without any Light, and at parting not a Word was ſpoke: That there came from Col. *Holmes's* on Board their Yacht a Cold Pidgeon-Pye, and a Bottle of Brandy: That Lord *North* and *Grey's* Portmantle was on Board the ſaid Yacht, and in it his Lordſhip's Piſtols. The Examinant ſays, When they came away from *London*, he had no Apprehenſion whither they were to go. The Examinant ſays, That they came from the Iſle of *Wight* in the Governor's Yacht, and Landed at *Portſmouth*; that he knows not to what Place they came next, and does not remember whether they came back the ſame Way they went, only that in coming back, ſeeing a remarkable Houſe, ſome-body ſaid it was the Duke of *Newcaſtle's*, and he had not obſerved the ſame in going: That in the whole Journey he remembers no Place but *Yarmouth*, except *Kenſington*, *Brentford*, *Egham* and *Portſmouth*.

The Examinant further ſays, That he was recommended to Lord *North* and *Grey* by Captain *Edward Fitzgerald*, but he knows not where the ſaid Captain lives, that Recommendation having been procur'd him by an Acquaintance: That he has ſeen him with the ſaid Lord ſeveral times, and has alſo ſeen *Matthew Fitzgerald* with his ſaid Lord at *Epping*: That he never ſaw Mr. *Layer* but at his Lord's three or four times, and he had lived with his Lordſhip a pretty while before he ſaw the ſaid *Layer*: That he does not know Mr. *Lynch* nor Mr. *Fountain*: That Mr. *Layer* has lain at his Lord's at *Epping*: That a Gentleman came thither with Mr. *Layer*, dined and lay there; which Gentleman was in Height about the Examinant's Size, not ſo Fat as he, and ſeemed of a Fair Complexion; that the ſame time they were there, the Examinant ſeeing a Double-Barrell'd Gun in the Houſe, that had been

B. 18.

brought thither, and enquiring whose it was, he was told, it was Mr. *Layer's*: That the first time he saw Mr. *Layer* at his Lord's, he came alone: That he knows not Mr. *Fitz-Patrick*.

Hugh[illegible]d.

Capt. & Jurat 29° die Septembris, 1722.
Townshend.

B. 19.

The Deposition of Mrs. Elizabeth Mason *of the Parish of St.* Giles's *in the Fields;*

WHO being shew'd two Packets, containing Papers which she has severally marked, doth depose, that she received the said Papers from *Christopher Layer*, Esq; about six Weeks ago; who told her they were Love-Letters, and desired her to keep them safe, and not to acquaint her Landlady Mrs. *Cook* with them, lest she should tell the said *Layer's* Wife, whom the said *Layer* expected home soon.

The Mark of
W W
Elizabeth Mason.

Cat. & Jurat die 29° Septembris, 1722.
Coram me
Carteret.

B. X. 20.

PAPERS in the Smaller Bundle belonging to Mr. *Layer*, N°. to 9. inclusive, and taken at Mrs. *Mason's*, *Sept.* 29. 1722.

The S C H E M E. N°. 1.

Au Defaut de la force, il faut employer la Ruse.

1. LET the General and only Officer of Note in the Camp agree upon a Day for Execution.

2. Let the Officer that Day put himself on the *Tower-Guard*.

3. And as there is 8 Serjeants, (*viz.*) 3 of the First Regiment of Foot-Guards, 3 of the Second, and 2 of the Third, all ready at an Hour's Warning, to obey Orders, ----- Early that Morn. let the Officer see a single Person, namely, *George Wilson*, who manages these Serjeants, and give him Directions to bring them all to some convenient Place at Four that Afternoon.

4. Then the Officer must give each Serjeant Money sufficient for the purpose, and direct them that each Serjeant order 25 Men (making together 200, which they have ready) to go singly out of the Camp, and meet together at Church-yard, exactly half an hour past 8 in the Evening; when and where another Officer that they know must meet them, and take the Command, give them Muskets ready loaded, and march with them in a Body to the *Tower-Gate* at 9 that Night exactly.

5. Our Friend, the Officer within, must precisely at that Hour of 9, be on the G[illegible] at the *Tower Gate*; and seeing this Body of Men appear, order the Garrison to let them in, as a Recruit sent to the *Tower-Guard*.

6. As soon as ever they have entred, to seize the Arms at the *Tower-Gate*, shut the Gate up, and secure every one in the *Tower*, that the Officer on Guard gives them Orders to secure; but not to shed any Blood.

7. The *Tower* being thus seized, to leave only a small Guard there, under that Officer who lets them in; and then, with all those that joyn you, march directly to the *Exchange*, where the Great Doors must be ready opened, and the *General* there in Person.

8. At the exact Hour of 9, that the *Tower* shall be thus seized, the Persons of some Great Men to be arrested *at their Houses*, brought directly into the City, and delivered to the General.

9. That upon our Meeting at the *Exchange*, the Annexed *Proclamation* to be spread about, the Gates of the City to be shut up, and Pieces of Cannon brought down against

againſt them. But every Man that deſires to enter the Gates, before any Regular Force appears, to be admitted to come in: And after the General has appointed a Guard at each Gate and Inlet of the City, with proper Officers to command there; let him march back to *Tower-Hill*, for a Place of General Rendezvous, under the Cannon of the *Tower*, and order the Lord Mayor a good Guard to watch over the *Bank*. But firſt, take Money from thence to the *Tower*, in order to pay the Men.

10. That on the Morning of the ſame Day our *General* to have an Interview with ſome other Principal Officer of the Camp, and order him to engage all Friends to attend at their reſpective Poſts, and expect a * Token to be ſent to each of them as that very Night; on receipt of which Token they are to draw their Men out, and march directly to *the Artillery in the Camp*, as a Place of General Rendezvous: And that the Captain of the Artillery may not be alarm'd, *Let this Principal Officer* previouſly ſend a Meſſage to him, that Orders are come from the General (*Cadogan*) to double the Guard of the Artillery, on a Rumour that is ſpread of the Mob being up in the City.

* *It may be a Note in writing, thus,* (viz.) Sir, I'll meet you at p'to Night; don't fail me.

11. The Party being come to the Artillery with the ſaid Principal Officer at the head of them, let them immediately draw the Guns round them, and ſtand upon their Defence, without making any Declaration, until the ſaid Principal Officer who commands in Chief there, receives certain † Intelligence from our General, that the *Tower* is ſeized upon, and the City all in Arms; and then, under a pretence of ſecuring the King's Perſon from the Inſults of the Mob, let this Officer make a Detachment to take him into Cuſtody, and ſend him into the City to the General at the Tower.

† *A verbal Meſſage by a 3d Perſon that muſt be by when the General and this Chief Officer conſult together in the Morn.*

12. To facilitate theſe Proceedings, let the General the ſame Day ſpeak to the *Horſe-Officers* in the Camp, who he knows to be our Friends, and upon the very firſt Alarm of the City's having revolted, let them march their Men to either *Ludgate* or *Newgate* on Pretence to ſuppreſs the Mob; and when they are at the Gate as a Token of their being Friends, let the Watch-word be, *This Morning*; and upon giving in the Word there, to open the Gates and let them in, and as ſoon as they are entered, to march directly to Tower-Hill and join themſelves with the General there.

13. Let the General alſo the ſame Day order 4 of the Half-Pay Captains to take upon them the following Commands, *viz.*

14. Firſt Captain to *go into Southwark*, and exactly at the Hour of 9. to make a Bonfire in the Fields there, and give ſome Money among the Mob; and when you have got a Number together, ſend an Account to the General, take the Arms that muſt be lodged there, and diſtribute out amongſt them to your Acquaintance in the firſt Place, and to thoſe which they recommend; and then iſſue out the Declaration; and after the Receipt of a Token from the Captain next mentioned, who is to command in *Palace-Yard*, to Ferry over thither in Lighters, with the Watch-Word *This Morning*, and joyn the Captain in *Palace-Yard*.

15. Second Captain exactly at the Hour of 9, to be in *Privy Garden* adjoining to *White-Hall*, with a few Gentlemen armed, and ſeize upon the Great Guns there, and then ſpread the Declarations, and ſtay there under the Cannon till a greater Body joyn you from *Southwark*; or otherwiſe, nail up the Cannon, and march directly to the next Captain in St. *James's Park* with the Watch-Word *this Morning*, and then ſend the Token as above to the Firſt Captain in *Southwark*, and let the Meſſenger you ſend, conduct him and his Men to you in St. *James's Park*.

16. Third Captain at the ſaid Hour of 9, to go into St. *James's Park* with the Key that is given you of the Private Door out of *Arlington-ſtreet*, and appoint only ſome few Gentlemen to meet you there exactly at that Hour, and every one to have the Watch-Word you give them, which muſt be, *This Morning*. Let your firſt Rendezvous be at the little Grove under the Wall near the Gate leading to *Hide-Park*, and there you'll meet Fire-Arms ready charged. Then march down to the *Parade* next the *Horſe-Guard*, and ſeize upon the Cannon there, and Ammunition in the Store-houſe; And the better to ſecure St. *James's* Park for a Place of General Rendezvous, you ſhall have an Officer out of the Camp exactly at the Hour of 9. come to your Aſſiſtance with ſome Men as he and you ſhall agree, in the Morning of this Day; and as ſoon as you have ſeized the Cannon here and Ammunition aforeſaid, you are to put your ſelves in a Poſture of Defence, and publiſh the *Declaration*, and ſend forthwith to the *General* at the *Tower*, to let him know of your Situation; and alſo ſend to the *Captains* in *Palace-Yard*, *Southwark* and *Tuthil-Fields*, that they immediately come and joyn you.

17. Fourth Captain exactly at the Hour of 9, the Evening of the ſame Day, to be in *Tuthil-Fields*: Raiſe the *Weſtminſter*-Mob there, and with the Arms which are there *lodged*, equip them as you can; publiſh the *Declarations*, and march directly to St *James's Park*, and joyn with them there, who, on the giving them the *Watch Word*, are to admit you into the *Park*.

18. So

18. So here being Two Bodies of Men thus gotten together, the firſt Night, viz. One on *Tower-Hill*, and the other in St. *James's Park* (beſides our Friends at the Artillery in *Hide-Park*,) the next Morning, if not ſooner, let our General order a Detachment to *Lincoln's-Inn-Fields*, and ſome Cannon to be placed on the Terras of the Garden there, leſt the Enemy come in there between Sr. *James's Park* and the City.

19. A proper Captain muſt be appointed to head the Watermen belonging to the *Thames*; and, previous to the Day of Execution, he muſt agree with the Duke's Barge-men, that upon the leaſt notice to be given them, that they Alarm all the Watermen, and bring them to a Rendezvous the ſame Hour of 9, that Night of Execution; and this Captain's Rendezvous muſt be at *Greenwich*, where he muſt ſeize the Magazine of Powder, and take out ſuch Part of it as each Man will carry; then blow up the reſt, ---March from thence to the *Tower*, and joyn his Men with the *General* there, to whom he muſt firſt ſend a Meſſenger with the *Watch-Word*, and an Account of his Numbers.

20. Some time before Execution, the *General* to ſend a Meſſenger to particular Men in the Countrey, that they riſe in their reſpective Countries, upon the firſt News of what is done here.

21. An Officer, &c. to go to *Richmond*, and at the exact Hour of 9, to ſeize upon Prince *Prittyman*, and bring him away to *Southwark* to ſome particular Place appointed, where an Agent from the *General* muſt meet them with his further Orders.

B. X. 2. 3. 4. 5. 6.

1.

I Acknowledge to have received from
the Sum of
an Intereſt for it, at the Rate of
which Sum I promiſe to repay, with
per Annum.

James R.

☞ There are Nine more Blank Receipts in the ſame Words and Form as that above; and numbered from 1. to 10. inclusive.

B. X. N°. 7. *A LIST.*

1. q. *James Robinſon.*
Daniel Slack.
Thomas Bennett.
Alexander Cleland.
Daniel Mac Coye.

2. *George Smith.*
John Brown.
Edward Mitchell.
William Arundell.

3. *John Mac Coule.*
Alexander Mac Cully.

No. 8. *In the ſmaller Bundle.*

First Troop of Horſe Guards.

Mr. Morris,
Mr. Tavernier, *Junior* or *Senior.*

Second Troop of Horſe Guards.

Mr. Gil. Patrick,
Mr. Mac Donald,
Mr. Fitzpatrick,
Mr. Gamney.

Third Troop of Horſe Guards.

Mr. Criſp,
Mr. Joyfull.

Fourth Troop of Horſe Guards.

Mr. Grant,
Mr. Halicburton.

First Troop of Horſe Granadiers.

Mr. Bediford,
Mr. Fleming.

Second Troop of Horſe Granadiers.

Mr. Gardner, *Serjeant*
Mr. Mainzies, *Corporal.*

BX 9

No. 9. *In the ſmaller Bundle.*

Serjeants of the First Regiment.

James Robeſon,
Thomas Bennet,
Alexander Cleland,
Daniel Mac Coye,
Daniel Slack.

Serjeants of the Second Regiment.

George Smith, *Serjeant Major,*
Ed. Mitchell, *Quarter-Maſter Serjeant,*
John Brown,
William Arrundell,
Daniel Menix, *Drum-Major.*

Serjeants of the Third Regiment.

John Mac Coule,
Alexander Mac Cully,
William Kenady.

B. Y.

Copies of the Papers in the larger Bundle, belonging to Layer, *from* N° 1 *to* 42 *inclusive ; and taken at* Mrs. Maſon's.

29 Sept. 1722.

B Y. 1.

No. 1. *Of the large Bundle.*

Aſhburnham *Ld.*	*Auſtin.*
Army	*Barbara.*
Arran *E.*	*James.*
Argyle *D.*	*Alexander.*
Athol *D.*	*Aleſter.*
Amſterdam	*Abigail's Houſe.*
Ambaſſador	*Sollicitor.*
Archbiſhop *Cant.*	*Addiſon.*
Aylesbury *E.*	*Adrian.*
Arms	*Gloves.*
Ammunition	*Tackle.*
Allies	*Copartners.*
Abjuration	*Negative.*
Admiral	*Foreman.*
Albano	*Agatha's Houſe.*
Attorney General	*A Butler*
Alphabet	*Eſſay.*
Beaney *Mr.* John	*Adam.*
Beaney *Mr.* Richard	*Dicky.*
Bedingfield *Mr. Chr.*	*Anthony.*
Bolton *D.*	*Billy.*
Beauford *D.*	*Bentley.*
Bavaria *D.*	*Barton.*
Breſt	*Beatrice's Houſe.*
Bank	*Stock.*
Bank Bills	*Toys.*
Bill in Parliament	*Project.*
Betray	*Befriend.*
Barnard *Ld.*	*Addy.*
Biſhop	*Maulſter.*
Buttle of *Bally Ragget*	*Smith.*
Barwick *D.*	*Bryan.*
Battle	*Scuffle.*
Bullingbroke *Ld.*	*Ben.*
Compton, *Mr. Speaker*	*Allen.*
Cotton *Mr.*	*Arent*
Clarendon *E.*	*Lowder.*
Cambridge	*Alice's Houſe.*
Clands high Lands	*Suilevans.*
Calais	*Betty's Houſe,*
Cadix	*Beſſe's Houſe.*
Club	*Conventicle.*
Channel the	*The River.*
Channel *St. George's*	*Shannon.*
Council Privy	*Arnout & Company.*
Council Cabinet	*Eben & Partners.*
Campaigne	*Seaſon.*
Common-wealth Party	*Joſiah & Partners*
Correſpond	*Barter.*
Captain	*Turner.*
Colonel	*Coaſter.*
Cook of *Norfolk*	*Conyers.*
Conſpiracy	*Conference.*
Colledge	*Club.*
Crown	*Freehold.*
Chancellor Chamberlain	*Auditor.*
Church of *England* Cars	*Charles.*
Clergy	*Francis, Friend.*
Commiſſion	*Letter of Attorney.*
Churchill *D.*	*Mat.*
Cut-paper	*Pattern.*
Clerk a	*Under Steward.*
Commons Houſe	*Sober Party.*
Cypher	*Rental.*
Court Party	*Thomas & Partners.*
Country Party	*Peter & Partners.*
Czar	*Hector.*
Carterett *Ld,*	*Haughton.*
Cambray	*Auchies Houſe.*
Chandois *D.*	*Dutton.*
Craven *E.*	*Harvey.*
Cadogan	*Barlow.*
Carterett Ed. *Poſt-Maſter,*	*Barber.*
Clifford *Ld.*	*Baker.*
Daſhwood *Mr.*	*Dorrington.*
Declaration	*Speech.*
Dartmouth *Ld.*	*Carton.*
Downes *Mr.* Theo.	*Crowder.*
Dover Town	*Market-Town.*
Dicconſon *Mr.*	*Cliffton.*
Downs the	*Northern Sea.*
Dutch	*Bubbles.*
Duke a	*A Brute.*
Danger	*Doubt.*
Dublin	*Batt's Houſe.*
Denmark	*Analiffy.*
Deſcent	*Eſcape.*
Dragoons	*Colliers.*
Diſſenter a	*Phyloſopher.*

England

ENgland	*Hall & Partners.*
Ellis *Sir* William	*Everard Euſtace.*
Edward Charles	*Ezechiel.*
Emperor	*Ambr.*
Edinburg	*Roger & Partners.*
Eugene Prince	*Egleſton.*
Exchequer	*Lombard-ſtreet.*
Enemy	*Partner,*
Expedition	*Law Suit.*
Expreſs	*Cargo.*
FAvourite	*Rival.*
Friend	*Stickler.*
France	*Abel's Houſe.*
French	*Higlers.*
French Miniſter	*Ceney.*
Floyd David	*Jule*
Fox *Mrs.*	*Kinder Leonara.*
Fleet	*Lucy & Partners.*
France Regent	*Archibald.*
Flanders	*Anne's Houſe.*
Fund	*Rent.*
Forſter *Mr.*	*Dormer.*
Frederick Pr.	*Farmer.*
GAudy *Sir* Baſting-born	*Joſeph.*
Guadow *Mr.* Thoanaugh	*Philip.*
Gibraltar	*Mary's Houſe.*
Grafton *D.*	*Bradford,*
Guards	*Spies Directors.*
General	*Governour,*
Government The	*Direction.*
Gentry	*Peaſants.*
Garriſon	*Meeting.*
Granard *E.*	*Martin.*
Gate-houſe	*Counter.*
Geneva	*Joyce & Company.*
Guilford *Ld.*	*Brooks.*
Gatherer *Dr.*	*Stranger.*
Garter	*A Favour.*
HAre *Sir* Ralph	*Michel.*
Hooper *Bp.*	*Morley.*
Hack; *Mr.* John Roterdam	*Hicks,*
Harley	*Lem.*
Horſes	*Black-cattle, Sheep.*
Horſemen	*Pins.*
Higgon *Sir* Thomas	*Higham.*
Hague	*Hart & Company.*
Heads of Colledges	*Ranters.*
Hobart *Dr.*	*Sinclair.*
Holland	*Nelley's Houſe*
Hannover	*Saundy.*
Hay *Mr.* John	*Stephen.*
Hughes *Mr.*	*Timothy.*
Hanmer *Sir* Thomas	*Joſſelin.*
Hampton Court	*Covent Garden.*
Hambleton *D.*	*Reynolds.*
ISla *E.*	*Willis.*
Italy	*Dorothy's Houſe.*
Invaſion	*Arreſt.*
Jacobite	*Quaker.*
Intelligence	*Trade.*
Inſtructions	*Accounts.*
Impriſonment	*Gout.*
Ireland	*Ruſh's Houſe.*
Judge	*A Clark.*
Jury	*Juſtices.*
Juſtice of the Peace	*Conſtables.*
KErnard Charles	*Iſaac.*
Knave	*A good Bowler.*
Kingdom	*Theodore & Company.*
King The	*Atkins, Jenkins, John St. Johns.*
King of Spain	*Trueman.*
France	*Jacob.*
Pruſſia	*Diederick.*
Portugal	*Richard.*
Poland	*Rich.*
Sweden	*Toby.*
Denmark	*Fletcher.*
Sardinia	*Lambert.*
King Auguſtus	*Lavary.*
Kinnoul *E.*	*Leo.*
Kerryon *Dr.*	*Edgar.*
Kingſton *D.*	*Jaſper.*
Kingſton *Ld. Iriſh*	*Ludovicus.*
King Staniſlaus	*Luke.*
Kennedy *Mr.* Francis	*Pots.*
Knight a	*An Attorney.*
Knight *Mr.* S. Sea	*Valentine.*
Kendal *Dutcheſs*	*Heſſe.*
Leſtrange *Sir* Nich.	*Mark.*
Lorrain *D.*	*Dirk.*
Lockart of *Carnwarth*	*Erneſt.*
Leſley Charles	*Hall.*
London City	*Pooly's Houſe.*
Law the	*Copy Hold.*
Loftus *Mr.* Edward	*Nye.*
Liberty	*Fancy.*
Liberty of Conſcience	*Whimſey.*
League	*Contract.*
Lanſdown *Ld.*	*Jemmy.*
Letter	*Token.*
Lord	*Meſſenger.*
Lords Houſe	*Andrew & Company.*
Londonderry *E.*	*Olly.*
Lowndes *Mr.*	*Con.*
Lawton *Mr.*	*Bely.*
Livres French	*Scotch Pounds.*
Lieutenant General	*Moderator.*
Liberties	*Notions.*
Londonderry *Bp.*	*Lemmy.*
Lear *Mr.*	*Paul, Gilbert.*
Law *Mr.*	*Nicho.*
Leedes *Marquiſs*	*Abimilec.*

MOnarchy	*Anne.*
Murray *Mr.* James	*Gil.*
Marſhal *E.* Scotland	*Ral.*
Mar *D.*	*Rowland.*
Money	*Matter.*
Manifeſto	*State of the Caſe.*
Methuen *Mr.* Paul	*Rowl.*
Miniſters	*Lawyers, Overſeers, Tattlers.*
Menzie *Mr.* John	*Ralpho.*
Major General	*Mate.*
Mob	*Mews & Partners.*
Mackintoſh Brig.	*Rob.*
Meſſenger	*Dr. of Phyſick.*
NOrth *Mr.* Roger	*Solomon.*
Norfolk County	*Chriſtintin & Part.*
Norfolk *D.*	*Samon.*
Northampton *E.*	*Sol.*
Netterville *Mr.*	*So.*
North & Grey *Ld.*	*Simons.*
Newgate	*Cheapſide, old Houſe.*
Nottingham *E.*	*Nicholas.*
Nairn *Sir* David	*Tilſon.*
Norris *Sir* John	*Ste.*
OXford *E*	*Stephenſon.*
Oxford Univerſity	*Obediah & Partners.*
Oaths	*Schemes.*
Oſtend	*Olly's Houſe.*
Oglethorpe	*Kit.*
Ormond *D.*	*Mark, Maurice.*
On the Way	*In a Hurry, in a Way.*
PLymouth *E.*	*Otter.*
Peterborough *E.*	*Roy.*
Paris	*Nando's-houſe.*
Plot	*Comedy.*
Peer	*Sailor.*
Proteſtant	*Citizen.*
Papiſt	*Country man.*
Pounds Ster. 1000.	*Pair Gloves.*
Port-Mahon	*Siche's-houſe.*
Power *Ld.*	*Wa.*
Packet-boat	*Coach.*
Pention	*Windfall.*
Pamphlet	*Journal.*
Prince the	*Jolly pretty Maſter.*
Powis *D.*	*Gaydan.*
Paſſa	*Letter of Credit.*
Packenton *Sir* John	*Lewſon.*
Parliament	*Medlicat, Reamy*
Pardon	*Scire facias.*
Peace	*Sarah.*
Pope the	Mrs *Mews*, Mr. *Slow.*
Prat L. Ch. Juſtice	*Gawthorn.*
Phips *Sir* Conſtantine	*Laur.*
QUeen the	*Rachel Debora.*
Quaker	*Dapper fellow.*
RObinſon *Sir* Tho.	*Titus.*
Rocheſter *Bp.*	*Juſtis.*
Religion	*Condition.*
Revolution	*Recovery.*
Reſtoration	*Recollection.*
Reprieve	*Writ of Error.*
Raby *Ld.*	*Gyſelbert.*
Rome	*Molly's-houſe, Jenny's houſe.*
SOuth-Sea Compa-ny	*Strolers.*
Stanhope Col	*Lanshecht.*
Stanhope Treaſurer and Chamberlain	*North.*
Stanwix Governor of Hull	*Kees.*
Sutton *Sir.* Robert	*Krely.*
Stairs *E.*	*Lourts.*
Scaub *Sir* Luke	*Kryn.*
Spy a	*Prigger.*
St James' houſe	*Maud's-houſe.*
Sollicitor General	*Agitator.*
Seal Great	*Large Stamp.*
Seal Privy	*Midlin Stamp.*
Signet	*Little Samp.*
Sheredan Tho.	*Liewen.*
Sheriff	*Overſeer o' Highway.*
Secretary of State	*Accompt ant Steward.*
Scotland	*Cicely's-houſe.*
Squadron of Ships	*Lucy's Daughter. A Couple.*
St. Germans	*Rowland & Partners.*
Souldiers	*Workmen.*
Sunderland *E.*	*Lodowick.*
Ships	*Hanging Guineas.*
Switzerland	*Luellin's-houſe.*
Secret	*Whim Merry-Tale.*
TOwer of *London*	*Upton.*
Thames the	*Klna's-houſe.*
Turk	*Weilburg.*
Torie	*Rambler.*
Taylor *Dr.*	*Miles.*
Treaſury	*Nath and Partners.*
Treaſury Commiſſ.	*Morgan & Partners.*
Throne	*Bar.*
Tryal	*Iſſue.*
Thouſand	*A pair.*
This to your Self	*This is all.*
Townſhend *Ld.*	*Lieven.*
Treby Secretary of War	*Liewe.*
Tolleration	*Remiſſion.*
VEnice	*Paget's-houſe.*

No. 1. *Of the large Bundle.*

Union the *Articles.*
University *Generality.*
Vane Lady Eliz. *Nancy.*

Walpole Robert *Ware.*
Chan. Exchqr.
Walpole Galf. *Poſt-Maſter* *Zachariah.*
Walpole Secretary & Treaſurer *Zach.*
William Auguſtus *P.* *Gwalter.*
Woodhouſe *Sir* Joh. *Abraham.*
Whitlock *Sir* Wm. *Burton.*
Whigs *Wilies, Moder. Man.*
Weſt-India's *Nathan & Partners*
Wharton *D.* *Nol.*
War *Jumble, diſpute.*
Windſor *Davis's-houſe.*
Weſtminiſter *Mart's-houſe.*
Witneſs *Voucher.*
Weſt *Mr.* Tho. *Jonny.*
Walgrave Lady *Heyltie,*
Weſtmorland Lady *Joanna.*

Yarmouth *E.* *Tarborough.*
York *Martha's-houſe.*
York a Biſhop. *Farguſan.*

A. b. c. d. e. f. g. h. i. k. l.
o. p. q. r. s. t. u. w. x. y. z.

m. n. o. p. q. r. s. t. u. w. x. y. z.
A. b. c. d. e. f. g. h. i. k. l. m. n.

BY 2.

No. 2. *Of the large Bundle.*

MR. *Diſtance,* a Diſtiller, over againſt the *Blue Anchor* in *Petty France,* and *Walſall,* at the *Blue Anchor.*

BY 3.

No. 3. *Of the large Bundle.*

FLeming, *Adjutant,* indorſed with a Pencil, *Gifford.*

BY 4.

No. 4. *Of the large Bundle.*

GReat Gate by Boteman, *Seymour's* Houſe.

BY 5.

No. 5. *Of the large Bundle.*

A Liſt of the Second, or Coldſtream *Regiment of Guards.*

	Captains	Enſigns
First Col. Ld. *Scarborough*	*Parſons*	*Young*
Lt. Col. *Oughton*	*Fielding*	*Huſſey*
Maj. Col. *Robinſon*	*Ganroulde*	*Corbett*
Col. *Folliet*	*Blackſtone*	*Hearn*
Col. *Short*	*Braduck*	*Veniens*
Col. *John Chudleigh*	*Daſey*	*Le Hay*
Col. *Leigh*	*Eaton*	*Hodges*
Grand. Col. *Poulteney*	*Short*	*Noel*
Col. *Hask*	*Strang*	*Barbarow*
Col. *Churchill*	*Stocker*	*Murrow*
Col. *Hanmore*	*Legg*	*Cornwallis*
Col. *Lowther*	*Vernon*	*Reeves*
Col. *George Chudleigh*	*Sawbridge*	*Sothby*
Lord *Arbermarle*	*Thomas*	*Scroope*
Col. *Howard*	*Needham*	*Hocknell*
Col. *Douglas*	*Gumley*	*Williamſon*
Col. *Vetchell*	*Pillard*	*Laſhley*
Col. *Cole*	*Burril*	

B Y 6.

No. 6 *Of the large Bundle.*

First Troop of *Horſe Granadiers.*

COL. *Faue*, W.
Lt. Col. *Cope*, W
Major *Godolphin*, W. in the Camp.
Sir *Harbottle Luſan*, G.
Capt. *Loyd*, G
Capt. *Sherley*, W. Sick
Capt. *De Verney*, W
Adjutant *Smith*, G.
Col. *Gay*, at the *Roſe* at *Knight's-bridge*
Lloyd on the Right, and
Berkley

Indorſed Col. *Flyer*, at *Scotland-Yard Coffee-Houſe*, Mr. *Sherman* his Accquaintance.

B Y 7.

No. 7. *Of the large Bundle.*

Half Pay, CApt. *William Duk*, Lieut. of *Granadiers*
Capt. *Andrew Hamilton*, Lieut. Adjutant
Capt. *Peter Adineſton*, Lieut.
Capt. *Hugh Frazer*, Lieut.
Capt. *George Oglevie*, Lieut.
Col. *Flower* was in the Guards, † no Pay.
Capt. *Peter Beavour*, half Pay † (* 30
Capt. *Hadden*, half Pay †
Lieut. *Richard Stedman*, Dragoons, half Pay †
Lieutenant *Callender*, no Pay † 20
Lieut. *Carr*, no Pay, Dragoons
Capt. *Bartlett*, half Pay
Capt. *Vermin*, half Pay †
Capt. *Bradley*, no Pay † 30 †
Capt. *Wilſon*, † no Pay.

B Y 8.

No. 8. *Of the large Bundle.*

DR. *Trubey*	50	Horſe arm'd.
Mr. *Brewer*	10	Horſe arm'd.
Dr. *Gooid*	3	Horſe arm'd.
Mr. *Spencer*	1	Horſe arm'd.
Dr. *Haſtey*	2	Horſe arm'd.
Mr. *Pritty*	1	Horſe arm'd.
Mr. *Gravity*	1	Horſe arm'd.
	68	

B Y 9.

No. 9. *Of the large Bundle.*

COL. *Duncomb*
Capt. *Colſton*
Capt. *Webb.*
Enſign *Stratton.*

B Y 10.

No. 10. *Of the large Bundle.*

Digby	*Dillon*
Orrery	*Burford*
Regent	*Steele*
Tories	*Tanners*
Whiggs	*Waggs*
Rogers	*Plunket.*

B Y 11.

No. 11. *Of the large Bundle.*

COrnet *Ed. Reding*, of the *Blue Regiment of Horſe*, Cornet of the late *Queen's Troop*: Serv'd three Campaigns in *Flanders*, in the Lord *Strathnaver*'s Regiment, Enſign: Has an Eſtate in *Suffolk*, in Mortgage, near *Yarmouth*, and was a Juſtice of Peace when the King came in for the ſaid County: Serv'd ſometime a Voluntier, in *Strathnaver*'s Regiment.

Enquire of *North* and *Grey*.

BY 12.

No. 12. *Of the large Bundle.*

MR. *Edwards*, h. j. comes to *Will's*, Mr. *Ker's* Acquaintance.

BY 13.

No. 13. *Of the large Bundle.*

LOrd *Winchelſey*, n. j. at his Houſe near St. *James's*.
Mr. *Bowdler*, in the Middle of *Bedford-Row*, near *King-ſtreet*.
n. j.
28. *Dec. P. W.* borne.

BY 14.

N°. 14. *Of the large Bundle.*

DR. John Parker in St. *Thomas-Apoſtle's*.
Joſeph Gynes Ironmonger, the corner of *Diſtaff-lane* in the *Old Change*.
Francis Powel, *Dry-Salter* in *Fryday-ſtreet*.
Charles Whadcock *Surgion*, in *Fryday-ſtreet*.
Joſeph Kettle a *Tobacconiſt*, in *Fryday-ſtreet*.
John Reynolds *Dry-Salter*, in *Fryday-ſtreet*.
Francis Gore *Diſtiller*, the upper End of *Bread-ſtreet*.
Benjamin Wells *Stationer*, at the *Plow* in *Watling-ſtreet*.
Thomas Saywell *Haberdaſher*, in *Newgate-ſtreet*.
Jeremiah Brite in *Bread-ſtreet*, formerly *Stationer*, but left off his Trade.
Richard Wright a *Barber*, in *Bread-ſtreet*.
William Norris *Bruſh-maker*, the corner of *Bread-ſtreet*.
Timothy Mathews *Confectioner*, in *Watling-ſtreet*.
Henry Wooliner *Diſtiller*, in *Weſt-Smithfield*.
Charles Blackſtone *Silk-man*, over againſt the *Conduit* in *Cheapſide*.
Thomas Truſſin *Diſtiller*, in *Budge-Row*, near St. *Antholin's* Church.
Benjamin Willis *Mercer*, at the *Woll-pack*, in *Lawrence-lane*.
John Griffiths *Hoſier*, at the *King's-Head* and *Key*, in *Cheap-ſide*.
Gabriel Walters *Dry-Salter*, in *Fryday-ſtreet*.
William Birch *Druggiſt*, in *Lombard-ſtreet*.
Jonathan Scarſe, ditto.
——— Marecraft a *Dyer*, in *Thames-ſtreet*, in St. *Mary Somerſet's* Pariſh.
Joſeph Chitty *Timber Merchant*, Ditto.
William Grubb *Dry-Salter*, in *Lawrence-lane*.
Dy Cleave *Pewterer*, *Cornhill*.
Mr. Love in *Lawrence-lane*, *Mercer*.
Go to Mr. *Brearcliſt*, from Mr. *Ford* and Mr. *Pollet*.
Indorſed Mr. *Boiquett's* LIST.

BY 15.

No. 15. *Of the large Bundle.*

The Marquis *Calderon*
Mr. *James Dorſey*
Mr. *Francis Lynch*
Mr. *William Morrice*
Capt. *Robert Lambert*
Mr. *James Butler*
Mr. - - - - *Lumbert*
Mr. - - - - *Oats* 8
Mr. - - - - *Doyle*
Mr. *James Trench*
} This Piece torn off in the Original.

Spelman
Talbot
Capt. *Fullam*
Low
Coypole
Alford, at the *White Horſe* near *Bedlam* } 15
Spencer
Williams 20
Smithſon
Pretty
Thomſon, Enſign 20
Tasburgh 12
} The Doctor

Vernon 12
Thomas 10
Briquett 30
Taylor 20
Roach 1000

BY 16.

No. 16. *Of the large Bundle.*

COL. *Falliot*, of the 2d. Regiment of Foot, *G. v. W.*
Col. *Fuller* of the 1ſt. Regiment of Foot, ditto.
Sir *Rodolphus Oughton*, of the 2d Regiment ditto
Col. *Cæſar*, ditto.

3d Troop of Horſe, next the Foot.

Col. Lord *Newburgh*, *W.*
Lt. Col. Lt. Gen. *Compton*, *W.* Gov. *Tower.*
Lt. Col. Col. *Kien*, *German.*
Major *Mohun*, *V. W.*
Major Cholmondley, *W.*
Exon *Walker*, *M.*
Exempt *Roberts*, *M.*

Exempt *Krant*, *German.*
Brig. *Edmonds*, *h.*
B. *Slater*, *m.*
B. *Faulks*, *qr.*

Adjutant *Bradle*, *m.*
Sub. B. *Gaſner*, *h.*
Sub. B. *Thomas.*
Sub. B. *Cunliffe*, *m.*

Indors'd thus
Sergeant-Major *Smith*, 2d Regiment of Foot, and *Mimux* Drum-Major.
Serjeant *Bennett*, 1ſt Regiment.
Dyer, Keeper.
Weſton, ditto.
Mr. *Kavenaugh*, at the *Old Vine Ale-Houſe* by *Chearing-Croſs.*
Qr. Who accuſed Mr. *Plunkett*, is Mr. *Taffe.*

BY 17.

No. 17. *Of the large Bundle.*

MR. *Thompſon* under the Cover of Mr. *Waters*, *Banquier dans la rue Princeſſe Fauxbourg*, St. *Germain*, *à Paris.*

BY 18.

Nº. 18. *Of the large Bundle.*

MR. *Mead* Canary Merchant, worth 100,000 *l.* Mr. *Cook* knows where he Lives.
John Cooke at the *Fleece.*
Mr. *Cleares*, worth 60,000 *l.*
Mr. *Emerſon* at the *Angle* in *Cheapſide*, *China-man.*
Qr. Mr. *Ram* the *Gold-Smith*, worth 100,000 *l.*
Mr. *Shales*, *Gold-Smith* high *Tory*, over againſt the beſt Banker in *England.*
qr. Mr. *Martin Gold-Smith*, and his Three Brothers very Rich.
Mr. *Cambridge Merchant* at *Epſom* 100,000 *l.* Man.
Mr. *Blaſhford Refiner* near *Goldſmith's-Hall.*
Mr. *Appleby* the *Brazier*, worth 60,000 *l.*
Mr. *John Ward* in *Stock's-Market.*
Mr. *Lockwood* and the other 4 return'd Members for the City.
Mr. *Hickman* an *Attorney* next to the *Golden-Lyon*, in *Fetter-lane.* Qr. between *Whig* and *Tory.*
Mr. *Mead* the *Goldſmith.*
qr. The *Dry-Salter* in *Thames-ſtreet*, the Lord *L.* knows.
Joſeph Mott late living at the *Valture.*
Mr. *Makins* at the *Popes-Head-Tavern.*
Mr. *Foxhall* late Secondary of the *Counter*, 100,000 *l.*
Mr. *Strain* the *Bookſeller.*
Mr. *Eccleſton* a Quaker in *Gracious-ſtreet.*
Mr. *Pendarris* a Director of the *Eaſt-India-Company.*
Mr. *Cooper* the Broker, late at *Cooper's-Coffee-Houſe.*
qr. M. *Norris*, Brother to *James Norris.*
Mr. *Warkhauſe*, the Attorney.
qr. Mr. *Shepherd*, a Diſtiller.
Deputy *Parke*, qr. if a Live, very Rich.
Mr. *Tryon*, a Merchant.
qr. Young Mr. *Perry*, that marry'd Mrs. *Cox's* Daughter of *Epſom.*
qr. Mr. *Colebrook*, the Banker.

N° 19. *Of the large Bundle.*

Of the Second Troop of GUARDS.

First Squadron.

MR. Bilby
Bocking
Brogdon
Chandler
Cooke
Geary
Glaſcock
Haddock
Harris
Man
Marchent
Maſtone
Muriell
Parſons
Ruſſell
Stone Gabriel
Wilſon
Young

Second Squadron

MR. Barnes
Brattle
Cole
Daniel
Drinkwater
Hall
Hearth
Hodgin
Nelſton
Patch
Philips
Price
Raper
Reynolds
Stafford
Stephens
Stokes
Taſſell
Webb
Wood

Third Squadron.

MR. Atkinſon
Bellimi
Beſt
Birch
Deinſee
Fitz-Patrick
Gaffney
Gil-Patrick
Goſnold
Grindall
Hawkes
Humphreys
Jones
Mac Donald
Merrifield
Ridley
Tippit
Underwood
Walker
Walker
Wells
Windall
Winter.

Fourth Squadron.

MR. Acton
Bennet
Bryon
Cardiffe
Dawſon
Ffielding
Hains
Hammond
Hickman
Horſkiſs
Long
Randall, Chriſtopher
Randall, Edward
Stone, Charles
Tindle
Wharton
Wildgooſe

BY. 20.

N° 20. *Of the large Bundle.*

LOrd *Carliſle*, Governour and Conſtable of the *Tower* of *London*.
General *Compton*, Lieutenant-Governour.
Major *Doyle*, Deputy-Governour.
General *Wills*, Lieutenant-General of the Ordnance.
Lieutenant *John Armſtrong*, Head Surveyor of the Works.

BY. 21.

N° 21. *Of the large Bundle.*

Third Liſt of Officers.

Fourth Troop of Horſe-Guards.

LOrd FORRESTER, Colonel.

Samuel Horſey, Burton } Lieut.Colonels
Garth, Holden } Majors.
Charlot, Reede, Ayſlibee, Floyer } Exons.
Marriot, Ball, Naſh *or* Aſh, *Sen.* } Brigadiers.
Buckland, Sequin, Hilgrove *and* Jones, Naſh } Sub-Brigadiers.
Gifford, Adjutant.
La Ponge, Surgeon.

Second Troop of Horſe-Guards.

LOrd HARFORD, Colonel.

Cornwall, Sir Samuel Lennard } Lieut.Colonels
Dives, Roberts } Majors.
Muſclary, Weaver, Whitacre, Edwards } Exons.
Fowkes, Greenhill, King, Rogers } Brigadiers.
Offley, Fleming, Corwin, Gough } Sub-Brigadiers.
Fleming, Lorrain } Adjutants.
Paullett, Surgeon.
Clavering, Chaplain.

Second Troop of Horſe-Grenadiers.

W. Barkley, Colonel.
W. Turner, Lieutenant Colonel.
C. Hubard, Major.
M. Hutchin, M. White, M. Steward, M. Betley } Captains.
M. Brightman, Ld. Carmichael } Adjutants.

BY. 22.

N° 22. *Of the large Bundle.*

EDward Rowe
Pat. Tighe
Dennis Conner
John Walſh
John Saxton
Bryan Neall
John Mitchell
Pat. Broders
John Heifer
Marto. Downs
Samuel Hamilton
James Gafney
James Ryley
Charles Ryley
James Oxburgh
Tho. Bryan
W. Mathews +
John New —
James Caſey
George Butterton
Humphry Corbett
Walter Dolphin)
John Heather) +
Jeffery Heyley)
John Clinton
John Haye +
Will. Courtney
Edward Courtney
Roger Henley
Robert Kelly
Malachy Kelly
William Comber
Samuel Patridge
Ed. Fitz-Gerard
Matt. Fitz-Gerard
Matthew Fury
George Peace +
Alex. Macoline
Nicholas Buttler
Nicholas Fanning
James Robinſon
Alex. Williamſon
Whitney M'Can
Henry Galaway
Henry Smith
William Gill
James Oſburne
Tho. Purſell +
James Baxter
Luke Geohagan
Tho. Spelman
John Machir

Edmund

Edmund Keating
Andrew Keating
Toby Gilmore
Walter Helly

Toby Philips
Fergus Farrell
James Gray
John Hayney

James Newland
Will. Johnſon +
to be gain'd.
Terence Byrne

William Byrne
John Brittain
John Walſh B

BY. 23.

Nº 23. *Of the large Bundle.*

A Liſt of the Third Troop of GUARDS.

Colonel Ld. Newburgh
Lieut. Col. General Compton
Lieutenant Colonel Caine
Major Mohun
Major Chomley
Exon Roberts
Walker, Grout, Savell

Edmonds, Shater, Fowks — Brigadiers
Margret, Gainer, Conliffe, Wills, Thomas — Sub-Brigadiers.
Bridle, Adjutant.

First Troop.
Ld. Herbert, Colonel.
Blathwait, Weſt — Lt. Cols.
Wright — Majors.

Second Troop.
Ld. Harford, Colonel.
Cornwall — Lieut.Col.
Roberts — Majors.
Whitaker, Muſcary, Weaver — Exempts.

Fourth Troop.
Lord Forreſter, Colonel.
Horſey, Burton — Lieut. Colonels.
Majors.
Charlott, Dillks

BY. 24.

Nº 24. *Of the large Bundle.*

Captain Maerott, Captain Buchell — of the Horſe-Guards.

BY. 25.

Nº 25. *Of the large Bundle.*

Brigadier Barckley.
Lieutenant Colonel Turner.
Major Howbard, a Frenchman, *Honeſt*
Capt. Hutchin, Capt. White, Capt. Steward, Capt. Betterley, Bapt. Bright — *not bad.*

Serjeants.
S. Bathrom
S. Hutten
S. Richſon
S. Emley
S. Randal
S. Gardner

BY. 26.

Nº 26. *Of the large Bundle.*

Firſt Liſt of Officers.

1 *Troop of Horſe-Grenadiers.*
W. Colonel Fane
W. W. Colonel Cope

W. Major Godolphin
60 Sir Harbottle Lucan +
Captain Lloyd +

W. Captain Sherley
W. Capt. Daverny
Adjutant Smith.

1 *Troop*

1 *Troop of Horſe-Guards.*

Ld. Herbert, Colonel.
Blathwaite, Weſt — Lieut. Cols.
Layton, Wright — Majors.
Driver, Batſon — Exempts.
Parſons, Clark — Brigadiers
Eaton — Sub-Brigadiers.
Batſon, Adjutant.

3 *Troop of Horſe-Guards.*

W. Ld. Newburgh, Colonel.
W. Compton, G. W. Kien — Lieut. Cols.
V. W. Mohun, W. Cholmondley — Majors.
M. Walker, M. Roberts, G. W. Krant — Exempts
Edmunds, M. Slater, Fawks, Gainer, Thomas, M. Cunliffe — Brigadiers.
M. Bridle, Adjutant.

First Regiment of Foot.

Cadogan, Colonel.
Wheeler, Lloyd, Guyes — Colonels.

B Y. 26.

Read
W. Fuller
Frampton
M. Shutz
Merrech
M. Paul
Ingoldſby
Garrard
Carpenter
Duncomb
M. Buncomb
Haſtings
M. Pitts
Lee
Pearſon
Ingwood
M. Wingfield
Treby
Huſſum
M. Jefferys
Williamſon
— Colonels.

M. Eaton, *Quarter-Maſter*
M. Colſton
Knowles
Bagnall
Murcott
Brackley
M. Sanderſon
M. Margetts
Fogg
Swan
Hemington
M. Cornilh
Gully
Bettenſon
Sir John Buckworth
— Captains.

M. Rawlinſon
Carr
Harvey
Herbert
M. Courtney
Ruſſell
Lee
M. Jenſon
Durſley, *Sen.*
Rawlins
Tichburne
Gibbon
Durſley, *Jun.*

M. Gorſuch
Hudſon
Parker
Goodrich
Dunſtan
M. Daffey
Greenaway
M. Fiſh
Ld. Burclear
M. Kate
M. Murry
Hendry
Worley
M. Gooding
Scott
M. Mitchell
Revett
M. Munſon
Earle
Webb
Slow
M. Stains
M. Hamilton

B Y. 27.

N° 27. *Of the large Bundle.*

A Liſt of the Third Regiment of Guards.

		Captains.	*Enſigns.*
	Colonel Ld. Dunmore	Legg	Leaton
	Lt. Col. Ld. Wm. Hay	Scott	Ingram
1	Major Col. Scott	Ogelby	Quin
22.	Major Colonel Murry	Lovel	Gugleman
	Col. Sinclair	2. Maitland	Dick
	Col. Howard	Clark	Pawlet
	Col. Howard	Hambleton	Carmichell
	Col. Johnſton	Murry	Hales
	Col. Stuart	Farquor	Scott
	Col. Darby	Ld. Thomas Manners	Haſtings
	Ld. Howard	Liſter	Coldham
	Col. Creamer	Blacker	Levett
	Col. Reidley	Thomas Murry	Stapleton
2	Col. Skelton	Fraſer	Jelbott
	Col. Morton	Scroggs	Lowrey
	Col. Bing	2 Kingſley	Braithwait
	Col. Wolf	Stewart	Mordant
	Col. Morgan	Edmonſon	Reynolds
	Col. Smith		

N° 28. *Of the large Bundle.*

A Liſt of the Officers of Coldſtream's Regiment of Guards.

Ord Scarborough, Col.
Sir Audulphus Oughton, Lieut. Col.
Col. Robinſon, 1 Major.
Col. Folliot, 2 Major.
Col. Short
Col. Joh. Chudleigh
Col. Poultney
Col. Lee
Col. Huske
Col. Churchill
Col. Hamore
Col. Lowther
Col. Geo. Chudleigh
Col. Howard
Col. Albemarle
Col. Cole
Col. Vetchell
Col. Douglas

A Liſt of the Officers of the Scotch Guards.

Lord Dunmore, Col.
Lord W. Hay, Lieut. Col.
Col. Scott, 1 Major
Col. Murry, 2 Major
Col. Sencleir
Col. Howard
Col. Johnſtone
Col. Steward
Col. Darby
Col. Howard
Col. Creamer
Col. Ridley
Col. Skelton
Col. Morton
Col. Bing
Col. Wolf
Col. Morgan

B Y. 29.

N° 29. *Of the large Bundle.*

Firſt R. f. *ibm* *Logy.*

BRigd. Ruſell
Col. Guyes
Col. Fuller
D°—Read
D°—Frampton
D°—Merrich
D°—Garrard
D°—Haſtings
D°—Lee
D°—Grigwood
D°—Williamſon

Artillary Col.—Richards
Serj. Taylor
Capt. Donbar
Capt. Morehead
Col. Chudleigh
Capt. Hammond
Col. Egerton
Col. Flayer

Col. Duncan Mr. *Kenſey* at the *Crown* and *Thiſtle* in *Charles Court* in the *Strand.*

Indorſet, Col. *Duncan Machenzie* at Mr. *Hilliard's*, a Sadler, the Corner Houſe as you go into *Craig's-Court* over-againſt the *Devil* Tavern at *Charing-Croſs*, or at *Old Man's* Coffee-houſe.

B Y. 30.

N° 30. *Of the large Bundle.*

CApt. Dicks
Capt. Ogelbey
Capt. Heborne

Capt. More in Ireland
Serj. Bennett
Serrj. Maj. Second Regm.
Mr. Stuart, Horſe-Grand[r].

Charles Sutton, Mr. *Cook's* Friend, Lieutenant, the Maſter of the blue Anchor in *Petty-France.*

B Y. 31.

N°. 31. *Of the large Bundle.*

PROJECT.

A Great Sum of Money from the Multitude of People that will be fond of taking Tickets, under an Imagination that it is for his Benefit, and there is no Law here to prevent ſelling them. Therefore, if approved, to get the *Bank* to father the Project, and publiſh the Heads of the Scheme in the publick News to all Places, and to let one of their Members, or any Banker there, that has Credit in *London*, write to his Correſpondents here, that ſuch a Thing is on Foot, and that Tickets will come over in a ſhort Time to be ſold here. Alſo let Mr. *Hay*, who brings the Project, make two Copper Plates, one for printing the Scheme in *Engliſh*, and the

other to print the Tickets in *Italian*, and after having printed any Number of Tickets that may be put off there, to ſend me the Copper Plates with all Expedition, together with your Order to print and diſpoſe of the Propoſals and whole Number of Tickets here, that is mention'd in the Scheme, and I can execute it with only employing three People.

BY. 32.

Nº. 32. *Of the large Bundle.*

The firſt Tower.

THE King
Lord Cadogans
Gen. Withers's
Maj. Tallons
Brig. Wheelers
Col. Lloyds
Col. Guiſe
Col. Reads
Col. Fullers
Col. Frampton
Col. Merrek
Col. Paul
Col. Schutz
Col. Ingolsby
Col. Carpenter
Col. Duncombs
Col. Bancombs
Col. Haſtings
Col. Pitts
Col. Lees
Col. Pearſon
Col. Inwood
Col. Wingfield
Col. Treby
Col. Huffam
Col. Jeffreys
Col. Williamſon
Col. Garrards

Marſhal 2
Parker 2
Potter 2
Ducan .
Cleland :
Hodges :
Sincleir :
Taylor :
Bennet 2
Brawning
Orſon
Cock :
Harvey :
Bates 2
Chaterley 2
Pearcy
Hays
Evans
Ipy 2
Wheatley
Garton
Robinſon 2
Mr. Coy
Hill
Slack 2
Feegin
Banniford 2
Cowley 2

The ſecond Tower.

Powel
Williams
Lambert 2
Haward
Dudge 2
Davis 2
H. Davis 2
Archer 2
Robinſon 2
Peachey 2
Moor
Wintall
Holms 2
Johnſon 2
Kettle 2
Pridie 2
Page 2
Wedon 2
Adderſon
Wilſon
Gyles 2
Bailey 2
Johnſon
Broodmead
Name 2
Alexander 2
Gaſh 2
Davis 2

BY. 33.

Nº. 33. *Of the large Bundle.*

1ſt Troop.

Lord Herbert

Blaithwait
Weſt

Wright
Driver

Batſon
Parſons
Clark

Eaton

Lt. C. Majrs. Exempts. Brigad. Sub-brig.

Batſon, *Adjutant.*

2d Troop.

Lord Hertford, *Col.* and *Capt.*

Cornwal
Sir Sam. Lennard
Dives

Roberts
Muſclary
Weaver
Whitacre
Edwards
Foulks
Greenhill
King
Rogers
Offley
Fleming
Curwin
Gough

Lt. C. Majrs. Exempts. Brigad. Sub-brig.

4th Troop.

Lord Forreſter *Col.* and *Capt.*

Hor ey
Burton
Garth
Holden

Charlot
Reede
Aiſlebie

Merrot

Naſh
Bucklan

Naſh
Gifford, *Adjut.*

Lt. C. Majors. Exempts. Brigad. Sub-brig.

B Y. 34.

N°. 34. *Of the large Bundle.*

IN St. Martin's-Lane.

Wills.

Major Hobard in *Berwick-ſtreet.*
Every Day at 11 at Slaughter's Coffee-houſe.

B. Y. 35.

N°. 35. *Of the large Bundle.*

1 REgiment 28 Comp. with 49 Men in a Company.
2d Regt. but 18 Comp— 49 Men each.
3 the ſame with 2d.

To each Company.		
3 Commiſſion Officers.	1	1652
2 Serjeants.	2	1062
3 Corporals.	3	1062
2 Drums.	Total	3776

B Y. 36.

A Liſt *of the Names of the* Court of Aldermen *and* Common Council *for the City of* London, *choſen the 21ſt of* December 1721.

The Names of the Aldermen.

THE Rt. Honourable Sir Wm. Stewart, Knt. Lord Mayor, G
Sir Sam. Garrard, Bart. G
Sir Gilbert Heathcote, Knt. B
Sir Samuel Stanier, Knt. ½
Sir William Humfreys, Knt. and Bart. B
Sir Charles Peers, Knt. *B*
Sir John Ward, Knt. *B*
Sir George Thorold, Knt. and Bart. B
Sir John Fryer, Bart. *B*
Sir William Thompſon, Knt. Recorder, B
Sir Gerrard Conyiers, Kt. *B*
Sir Thomas Scawen, Kt. *B*
Sir Peter Delme, Kt. *B*
Sir Geo. Mertins. Kt. ½ ½
Sir Francis Forbes, Kt. G
Sir John Eyles, Bart. ½ ½
Sir Edw. Becher, Kt. ½ ½
Sir Harcourt Maſters, Kt. *B*
Robert Baylis, Eſq; *B*
Robert Heyſham, Eſq; ½ ½
Sir Rand. Knipe, Kt. ½ ½
Richard Brocas, Eſq; G
Humphrey Parſons, Eſq; G
Lancelott Skinner, Eſq; G
Francis Child, Eſq; G
John Levett, Eſq; Barber, G
Sir George Mertins, Sheriff, ½ ½ G
Edward Becher, Sheriff, ½ ½ G
Sir Geo. Ludlam, Chamberlain, G
John Lingard, Eſq; Common Serjeant, G
Randolph Stracy, Town-Clerk, ½ ½

The Names of the Deputies and Common Council-Men of the City of London.

Alderſgate Within.
Maj. John Snart, Dep. G
Mr. John Cartlitch, G
Capt. Joſeph Bird, G
Richard Levett, Eſq; G

Alderſgate Without.
Mr. Wm. Harriſon, G
Mr. Sam. Ballard, G
Lt. Col. Sam. Robinſon, Deputy
Capt. William Smart, G

Aldgate 6.
Sir Benj. Ayloffe, Bart. o
Mr. Geo. Waylett, Deputy
Mr. Thomas Parry, o
Mr. Francis Porren, B
Mr. John Scaplehom, o
Mr. Savage Atwood, o

Baſſiſhaw 4.
Mr. William Ellingham, Deputy, o
Mr. William Monck, o
Mr. Samuel Ball, o
Mr. Robert Walker, G.

Billingſgate 10.
Capt Jeremiah Jones, G
Mr. Edward Bellamy, G
Mr. Wm. Jenkins, Dep. G
Mr. Stephen Boughton, G
Mr. John Godwin, G
Mr. James Green, G
Mr. James Bennet, G
Mr. Roger Lynch, G
Mr. Robert Caldicott, G
Sir Joſ. Martin, Knt. ½ G

Biſhopſgate Within 10.
Mr. John Hamers, G
Mr. John Danſie, G
Mr. Wm. Weſtbrooke, G
Mr. Charles Hoyle, G
Mr. Sam. Edwards, Dep. G
Mr. John Brownſmith, G
Mr. Richard Stert, G
Mr. William Poole, G
Mr. Thomas Warren, G
Mr. Thomas Barham, G

Biſhopſgate Without 4.
Mr. Fran. Stonard, Dep. G
Joſeph Huntman, Eſq; G
Mr. Edmund Banier, G
Mr. Francis Roberts, G

Breadſtreet 12.
William Billers, Eſq; G
Mr. Sam. March, Dep. B
Mr. Joſeph Church, B
Mr. James Townſhend, B
Mr. John Wormlayton, *B*
Mr. Richard Read, *B*
Robert Aſhurſt, Eſq; *B*

Mr.

Mr. John Cogg[illegible] B
Mr. Jeremiah Murden, B
Mr. Jeremiah Knapp, B
Mr. Robert Cady, B
Mr. James Burdgett, B

Bridge 16.
Mr. Cornelius Herbert, G
Mr. John Stuart, G
Mr. Rich. Dunford, ſen. G
Mr. Richard Symons, G
Mr. James Pitts, G.
Mr. Wm. Parrot, Dep. G
Mr. Thomas Preſton, ſen. G
Mr. Noy Willey, o
Mr. John Thomas, o
Mr. Job Wilks, G
Mr. Henry Daniel, o
Mr. William Sheldon, o
Mr. Thomas Brookes, G
Mr. William Mingay, G
Mr. Tho. Preſton, jun. o

Broadſtreet, 10.
Mr. Geo. Frye, Dep. B
Mr. Samuel Newey, B
Mr. Richard Chauncy, B
Capt. Tho. Cartwright, B
Mr. Richard Turner, B
Mr. James Colebrooke, B
Mr. Robert Burchall, B
Mr. Henry Mertins, G
Henry Lyell, Eſq; o
Mr. Robert Keynton, o

Candlewick, 8.
Mr. Benj. Henſhaw, B
Mr. Peter Foſter, o
Mr. William Sharp, G
Mr. Thomas Hill, o
Mr. William Wilcox, o
Mr. John Thompſon, G
Mr. David Cooke, Dep. B
Mr. Thomas Davis, o

Caſtle-baynard, 10.
Mr Benjamin Tomlinſon, Deputy, G
Mr. John Bateman, G
Mr. John Gordon, G
Mr. Richard Trubey, G
Mr. John Townſend, G
Mr. William Innys, G
Mr William Knight, G
Mr. Edward Woodward, G
Mr. Bowler Miller, G
Mr. Chriſt. Bateman, G

Cheap. 12.
Mr. Richard Bridgman, o
Mr. John Young, o
Mr. John Morgan, B
Mr. Robert Baker, B
Mr. Wm. Scrimſhire, B
Mr. John Spillet, o
Capt. John Heron, Dep. o
Mr. John Clark, B
Mr. Fred. Stanton, o
Mr. Robert Kendall, B
Mr. Timothy Perry, o
Mr. Thomas Stiles, B.

Coleman-ſtreet, 6.
Mr. Simon Andrews, Deputy, o
Thomas Gibſon, Eſq; B
Mr John Newman, B
Mr. James Nutcher, B
Mr. Zerubbebel Crouch, B
Mr. Tho. Wilkinſon, B

Cordweynor, 8.
Mr. Henry King, o
Mr. Samuel Trench, o
Mr. Samuel Hatton, o
Mr. Henry Clarke, o
Mr. John Caſeberd, o
Mr. John Browne, o
Mr. Sam. Hayward, Dep. B
Mr. Walter Yerbury, B

Cornhill, 6
Mr. Rich. Chauncy, Dep. o
Mr. Edward Dod, o
Mr. John Wood, o
Mr. John Salter, B.
Mr. Thomas Ryley, o
Mr. William Hyde, B

Cripplegate Within 8.
Mr. Wm. Patten, Dep. G
Mr. John Skinner, G
Mr William Timms, G
Mr. Henry Bull, G
Mr. John Readſhaw, G
Mr. Charles Hartley, G
Mr. John Prankard, G

Cripplegate Without, 4
Felix Feaſt, Eſq; Dep. G
Mr. Edmund Joyner, G
Capt. Tho. Catmur, G
Mr. Nicho. Farringdon, G

Dowgate, 8.
Mr. Peter Hambley, G
Mr. John Norwood, G
Mr. William Tate, G
John Crowley, Eſq; G
Mr. George Monck, G
Mr. Edward Laſcelles, o
Mr. Ant. Tournay, Dep. G
Robert Edwards, Eſq; G

Farringdon Within, 15.
Mr. Thomas Hamond, G
Mr. Thomas Beech, G
Mr. John Everett, Dep. G
Mr. Wm. Emmerſon, G
Mr Henry Dechair, G
Mr. Benj. Bound, G
Mr Needler Webb, G
Mr. John Wheatly, G
Mr. Robert Knaplock, G
Mr. Henry Siſſon, G
Mr. Henry Shepherd, G
Mr. Hugh Bowſoy, G
Mr John Sherman, G
Mr. Gregory Dottin, G
Mr. Thomas Harris, G

Farringdon Without, 16.
Mr. George Sheppard, G
Mr. Alex. Maſter, G
Mr. Joſ. Parrington, G
Mr. Simon Peckley, Dep. G
Mr. Ralph Hyde, G
Capt. Joſ. Guillem, G
Mr. Cave Wiſeman, G
Mr. Tho. Sowlter, G
Mr. Thomas Keteriche.
Mr Nath. Turner, Dep. o
Mr. Charles Gretton, G
Mr. Robert Vincent, G
Mr Benj. Rogers, G
Mr. Charles Thatcher, G
Mr. Joh. Chellingworth, G
Mr. Thomas Taylor, G

Langborne, 10.
Mr. Hen. Henchey, Dep. o
Mr. Gabriel Smyth, G
Mr. William Birch, o
Mr. Edwin Sandys, o
Mr. John Colte, o
Mr. Tho. Ravenſcroft, o
Mr. Wm. Holloway, ſen. o
Mr. Richard Wilſon, G
Mr. Henry Nevell, G
Mr. Walter Ray, G

Lymeſtreet, 4.
Mr. Joh. Hardman, Dep. G
Mr Henry Tombes, G
Mr. James Smith, G
Mr. James Philips, G

Portſoken, 5.
Mr. James Rocheſter, G
Mr. John Bridge, Dep. G
Mr. Daniel Bailey, G
Mr. John Pyecroft, G
Mr. Valen. Lewis, G

Queenhith, 6.
Mr. Robert Alſop, Dep. o
Mr Siſſon Roberts, B
Mr. Thomas Randall, B
Mr. Thomas Northey, G
Mr. Joſeph Ayliffe, o
John Barber, G

Tower, 12.
Mr. John Scot, B
Mr. Thomas Clarke, o
Mr. Edward Bridgen, o
Mr. John Elderton, G
Mr. John Briton, G
Sir Peter Eaton, Knt. o
Mr. Samuel Tatam, B
Capt. Nich. Batchelor, B
Mr. Thomas Heaton, B
Mr. Nicholas Hanbury, o
Major Peter Colton, o
Mr. James Taylor, B

Vintry.
Mr. Edmund French, Deputy, o
Mr. John Samwayes, B
Mr. James Kelham, o
Mr. Thomas Corbett, B
Mr. John Yerbury, G
Mr. Charles Cheeſeborough, B
Mr. Samuel Palmer, G
Mr. Ja. Cooper, o
Lt. Col. Sam. Weſtall, BBB

Wallbrooke, 8.
Mr. John Grainge, B
Mr. Richard Weſt, B
Mr. John Weſt, Dep. o
Mr. Samuel Keynton, G
Mr. William Farmer, G
Mr. Nicholas Jackman, G
Mr. Matthew Sheppard, G
Mr. Joſeph Lennet, G

Total 234

BY. 37.

No 37. *Of the large Bundle.*

On the Cover. Sir *William*'s Papers.

Te vindice tuta Libertas.
Sævis tranquilus in Undis.
Je maintiendray Pieté & Juſtice.

Sir *William Ellis*'s Letters were wrapt up in this Paper.

BY. 38.

Sir William Ellis *to* Layer.

No 38. *In the large Bundle.*

Dear SIR,

I Received with a great deal of Pleaſure and Satisfaction, a Letter of 24th *November* from my worthy Friend, with an account of his ſafe arrival, of which I was in ſome doubt before, and in no ſmall pain on that account. I eaſily conceive he muſt needs have had a great deal of Buſineſs on his Return, as well of his Uncles as of his own, and therefore I do not think much that I heard no ſooner from him, believing he was much better employ'd, and that Buſineſs is to be preferred before Compliment.

I am entirely of his opinion, as to the method of carrying on the Manufactory; the procuring of good Workmen is the firſt ſtep to be made, and if he can get ſuch, the reſt will be eaſy, and particularly if he could gain ſome of the ableſt of Mrs. *Barbara Smith's*, I know it would be very agreeable to all concerned, and particularly to Mr. *Atkins*, to whom he ſpoke of writing, and which I am ſatisfied will be very acceptable, and if he think fit to encloſe it to me I ſhall convey it ſafely to his hands, who I find was very glad to hear of him, counts very much upon his Friendſhip, and hopes for the continuance of it.

I made his Compliments to Mr. *Timothy Watſon*'s Wife, who took them very kindly and returns hers with her moſt humble Service. She and her Charge are very well, God be praiſed; as are alſo all Friends here.

He having read over ſeveral times the Paper I ſhowed him, and having a good Memory; I don't think it neceſſary to ſend a Copy of it.

I am with great Eſteem and Reſpect ever moſt entirely,

Dear SIR,

Your moſt affectionate moſt humble

and moſt obedient Servant,

Euſtace Jones.

30th *January*

For James Fountain, *Eſq; to be left at* Howell's *Coffee-houſe in* Great Wild-ſtreet, London.

BY. 39.

No 39. *Of the large Bundle.*

Dear SIR, 1ſt *October.*

I Hope this will find you ſafely arrived at home and in good health, all your Friends here are well. I have had the Misfortune either to looſe or to lay where I cannot find it, the Pattern for the Lace, ſo that I muſt deſire you will be pleaſed either to ſend me another; or

or to make Uſe of that of Mrs. *Kinder*, you will believe I am much concerned for giving you this trouble, and am moſt entirely,

Dear SIR,

Your moſt humble and moſt obedient Servant,

Everard Jones.

For James Fountain, *Eſq; to be left at* Howel's *Coffee-houſe in* Great Wild-ſtreet, London.

BY. 40.

No. 40. *Of the large Bundle.*

Dear SIR, *The* 11*th* July, 1722.

I Receiv'd with all poſſible Satisfaction the moſt affectionate Letter of 8th *May* with its inclos'd, which was preſently deliver'd to Mr. *St. John*, who took it extream kindly, but could not well underſtand what relates to Mr. *Burford*. He hopes your Anſwer to what I writ in the beginning of the laſt Month, *May*, ſoon clear that, you will have ſeen by what I then told you, that your former came ſafe to his Hands, and the reaſon of your not having had a diſtinct Anſwer to it. He had the Stockings you ſent for him, and returns you many Thanks for them; as alſo for all other Marks of your Affection and Concern for him and his, and will be ready to ſhow his Senſe thereof on all Occaſions. I am in earneſt Expectation of hearing ſoon again from you, and am with all poſſible Affection and Eſteem,

Dear SIR,

Your moſt faithful and moſt humble Servant,

N. C.

To James Fountain, *Eſq; to be left at* Howell's *Coffee Houſe in* Great-Wild-ſtreet, London.

BY. 41.

Sir William Ellis *to* Layer.

No. 41. *Of the large Bundle.*

27th May.

Dear SIR,

I Receiv'd with a great deal of Pleaſure the favour of your moſt obliging Letter of 22d *March*, with an enclos'd for our Friend, who was very glad to hear from you, and is very ſenſible of, and takes very kindly the Care you take of his little Concerns there; but ſays he does not ſufficiently underſtand the State you ſent, ſo as to be able to make a particular Anſwer, till you ſhall further explain it. There being ſome Tenants mention'd by you whoſe Names he does not find in the Rental, as *Burford*, *Steel*, *Digby*, the little Soldier, and *Simons*, the latter he believes ſhould be *Simmes*, he is of the *North a gray haired* ancient Man, whom he very well remembers, and has a particular Eſteem and Value for, as a very good Tenant, and a very honeſt Man.

All Friends here are in perfect good Health, God be thanked, and remember themſelves kindly to you, and I am moſt entirely,

Yours, &c.

BY.

No 42. *A Wrapper.*

THE great Bundle was enclos'd in this, which is a Poem to the Memory of Queen *Anne*,

B. 22.

The foul Draught written by James Plunket.

Sir,

I Thought it needleſs to trouble with any Letters, becauſe I imp[illegible]d all *Andiron*'s Letters to *Burford*; and ſince I am made believe they ſent them to M[illegible] *Joſeph*. I had four Letters from *Andiron*, which I gave to Mr. - - - - - in the original language, his Clerk told me they wou'd ſend them to you, and to Mr. *Joſeph*, this made me [illegible] to trouble you with any Letter. This only to wiſh you a happy New-Year. I h[illegible] it will bring the Law-Suit to bear afore 'twill end, if they wou'd have but Courage and Integrity they may walk *Hannell* out afore he is weary of 'em, and thinks no more of ſtaying amongſt them.

I had four of *Andiron*'s Letters ſince my laſt to you, Mr. *Burford* had 'em all, his Clarke gave me to underſtand they were ſent to Mr. *Joſ.* they will improve to his Advantage, they go on pretty briskly, and if they purſue the Schemes laid down in 'em, they may walk *Hannell* out afore *Lady-Day* next, they go on pretty briskly, but they ſhall have a fair Handle given 'em to walk him out.

Sir, I had three or four of *Andiron*'s Letters ſince my laſt to you; they were given to *Burford*, and gave me to underſtand they were ſent to Mr. *Joſ.* and if they wou'd be improv'd to advantage, they ſeem to hint *Hannell* deſigns to put [illegible] will have his laſt Refuge to [illegible] and to be revenged of this, they are reſolved to turn the Tables on him, they go on briskly as hitherto, they will walk him out a fore *May* come.

B. 23.

A foul Draught and Heads of a Letter written by James Plunket.

I Believe I may now venture to wiſh Joy of a happy and ſpeedy Replication, the *Wag* as well as the *Tanner* are ſo convinc'd of it, that the latter believes the former are ſo forward into that they will compliment Mr. *Ken* with a deſpot. Power, and won't let 'em come in for a Share: 'tis therefore they have taken a Reſolution to exert themſelves, and I believe you will have Meſſages with a Tender of their Services. There is one that ſets out from *Norfolk* in a few Days to let you know, they will ſtand by you on Occaſion, he only ſtays for me, and offers to bear my Expences. I have nothing to do now the Gerardins are laid aſide entirely, the Mates have taken their Reſolutions not to hall part a fore he ſweeps clean. The Precepts I lately gave in have given 'em all the fair Handles for't; ſo that I ſhall wait on you, and have the Satisfaction to tell you by word of Mouth, what will be acceptable; he carries the Liſt with him, no doubt on't you may have many ſuch now. I believe as ſoon as the Partners are up, the Mates will bring ſomething to bear in your Favour, no matter how they are undone, if they don't, and certainly all Buſineſs is at a Stand, till the Credit is eſtabliſh'd, but there is no Likelihood on't; neither is it poſſible in nature to do it as Matters ſtand now in *England*: there is no other Means to redreſs themſelves but a Replication.

Heads of a Letter written by James Plunket.

OF a ſpeedy Replication (hall diſtreſs'd) the *Wag* and *Tanner* will equally concur - - - - my Friend will wait on you to tender you their Service, (the *Gibſons* will fix the Mates and forward them) I have a Bisk that will do it.

Our Meſſage will pin the Basket, he'll make ſure of a ſlippery Dealer.

They go in Form, and will take more time than otherwiſe.

My Friend was to have gone a Month or two ago, but I could not ſooner; I was reſolv'd to give a new Broome to the Mates to ſweep clean.

They ſee you will be palm'd on 'em, therefore they will be contending for a Start in the Race of Honour: 'tis in the Power of *Otway* and *Kinkton* to do it when they pleaſe.

They are convinc'd by *Wag* and *Tanner*, nothing but a Replication can redreſs them.

'Tis better to be diſtreſs'd by our own, than by a Forreign Allen, the former ſooner made up than to be rid of the latter.

As

44

As you are to govern a Politician Keeper, I tell you what's for your Use and will be.

You may have daily Meſſages of this kind, you will be courted.

B. 24.

A Letter from Dixwell.

This Letter is in the ſame Hand-writing with one, which about the middle of May *laſt was ſeized among other Papers upon* James Blunt, *(a Prieſt apprehended coming from* France) *who ſaid that Letter was from Lieut. Gen.* Dillon *to a Relation here in* [illegible]. *It is alſo written in the ſame hand with other Letters ſigned* Digby, *which is the Cant Name for* Dillon *according to* Layer's *Cypher* B. Y. 10.

Monday, 21 April 1721.

SIR,

I Received yours of the 30th of *March*, as alſo the Copy of *Andiron*'s Letter to the ——— whereof I ſend *Joſeph* the Contents, with an Advice of your Journey in which I wiſh you and your Companion tho' unknown all Happineſs. When you arrive, write a Line to Mr. *Francis Kennedy* at *Joſeph*'s Houſe ſign'd with your proper Name, give him notice of your Lodging and pray him to viſit you, he will have directions to ſee you, and concert the proper Meaſures for your Introduction. I will take care to addreſs your Letters which will come to my hands as you recommend they ſhould. I am with much eſteem

SIR,

Your moſt humble and

obedient Servant,

Dixwell.

I ſhall be glad to have a word from you before Departure from *Antwerp*, with advice of the time you and Companion expect to arrive at *Rome*.

B. 25.

Extract of a Letter from Rogers *to* Digby.

5 *July* 1722.

MY Fellow Traveller is and has been very active ſince his coming from his Travels; he is more ſerviceable than thoſe that move in a much higher Sphere; he's ſpurring on the Club daily, and made a great many of 'em more active and ſtir in the Law Suit than they otherwiſe would have done.

His Wife parted hence Yeſterday for *Paris*, I gave her a Letter to you; he thought himſelf entitled to it, or any Civilities you can do her during her ſtay there.

Your Friends continue their Preparations, and are reſolved to hold themſelves in readineſs on occaſion, I ſhan't ſeem to know any thing of their Proceedings; they got a Notion I got Schemes to bring Mr. *Joſ.* on Arbitrary Terms; my Companion will ſupply my Place.

B. 26.

Extract of a Letter from Rogers *to* Digby.

23 *July* 1722.

MY Companion who has been in the Country this three Weeks paſt came to Town Yeſterday; he ſeems to be ſure of his Game, *viz.* that Mr. *Joſ.* Friends will run down *Leſtrill* and *Hawksby* in a little time, and bring the Law-Suit to bear on their own bottom and Independent of *Steele* or any body elſe; I am reſolved to know nothing of their Proceedings.

An Anonymous Letter. A Monſ. Monſ. Bonnaville.

Under Cover to Mr. *Hughes* Banq. at *Paris*:
And written with the ſame Hand as uſed to ſubſcribe Hatfield, Johnſon, &c.

This Letter appears to be from *George Kelly* to Gen. *Dillon*'s Secretary.

Thurſday, Sept. 27. 1722.

SINCE Mr. *G. Sampſon* went, I have not heard a Syllable either from Mr. *Gainer* or *G. Roberts*, tho' I wrote often to both ſince that time, which has been a great ſurprize and I may ſay no ſmall detriment to ſome of their Friends, for the Term being ſoon at hand, we ſhall be much at a loſs how to manage without their advice, which *G. Sampſon* poſitively promiſed to ſend a ſpeedy account of ----- the Scituation of your Friends affairs much as it did for ſome time paſt, and nothing has happen'd of late in your Family to ease their Loſſes or mend their Condition.

The State Proceedings are the Subject of all our Converſation here, and tho' the publick Papers are full and exact in thoſe Accounts, however I know you will not be ſatisfied if I don't ſay ſomething of them. About a Fortnight ago one *Neno* and one *Bingley* were taken up in their way to *France*, it ſeems the firſt of theſe has been concerned with ſome Newswriters here and was always very poor, but of a ſudden grew ſo rich that he was going to *France*, and one day meeting this *Bingley* told him that if he would go with him that he would maintain him, which the other readily conſented to, being in bad Circumſtances, accordingly they went ō Ship in ſome Days after, but had not been long there when the Meſſengers went and ſeized them, *Bingley* being much ſurpriſed at this, as they came to Town, *Neno* open'd himſelf, and told him plainly that his Neceſſities had made turn Informer, and that he had received 300*l.* or 400*l.* from a certain great Man for what Services he had done that way, and was to get 2000*l.* more if he could procure the Cypher which the Chevalier made uſe of with his Friends in this Country, and withall beg'd of him not to take any notice of this or any thing elſe that paſſed betwixt them upon his Examination, but *Bingley* was aſtoniſhed at the matter that when he came to be examined, he told the Council the whole truth and the Confeſſion which *Neno* had made to him, upon which they are both confined, and 'tis believed that *Neno* will be ſeverely puniſhed by the People whom he has impoſed upon, what motive induced the Fellow to make ſuch a Confeſſion or whether he was taken by Accident or Deſign, is what I cannot learn, but it is believed he was the occaſion of taking up moſt of theſe Gentlemen now in the *Tower*, and is known to none of them; after this there was one Councellor *Lear* taken up, about whom a great ſtir has been kept, but whether there were Papers of any Conſequence caught with him, or that he has made any Diſcovery is ſtill uncertain, the Politicians lay great ſtreſs upon his being very intimate with the Lord *North and Grey* and being much in his Buſineſs, and more within theſe two Days, ſince his Lordſhip has been ſeiz'd himſelf, the beſt account I can give of it is what I heard laſt Night at a Coffee-houſe, which is that his Lordſhip went ō board a little Veſſel near *Portſmouth* in order to go to *France*, and that the Guardſhips happening to examine and go aboard the Veſſel, finding him there in ſuch a private manner gave one Col. *Mo gan* or *Mordaunt* (I know not which) ſuch a Suſpicion, that without any order from the Government he had his Lordſhip immediately ſecured, others ſay that he was taken at one Colonel *Holmes*'s in the *Iſle of Wight*, but be that as it will, it is certain the Government ſent Meſſengers laſt Night to his Houſe in Town, and ſeized all his Papers and made his Family Priſoners. 'Tis ſaid his Lordſhip has wrote an angry Letter to the Secretaries of State, complaining of the diſreſpectful manner of his Seizure and the uſage he has met with, he is expected this Night in Town, and what the Event will be time only can ſhew. It is not much doubted but the *Habeas Corpus* Act will be ſuſpended at the opening of the Seſſion, and that a full account of this Helliſh Conſpiracy will be laid then open to the Publick, this the Miniſtry are certainly obliged to do in their own Defence, and if there be occaſion new Forces will probably be raiſed and more ſent for from *Ireland* and other Places.

We have had a report more than once that the Lord *Orford* was to come into the Miniſtry and to be Preſident of the Council, but as yet I find no truth in it, tho' the World does not ſcruple to ſay that the preſent Preſident the Lord *Carleton* is gone in diſcontent to the Country, and that there will be a change one way or other among them. I ſuppoſe you are now pretty well tired with News, and I expect as much from you in return, or at leaſt an account of this coming ſafe to you. As to thoſe in the *Tower*, I had almoſt forgot to tell you that they all have of late been very much indiſpoſed, particularly Mr. *Kelly*, which is imputed to the cloſeneſs of their Confinement, being never allowed to ſtir out or take a breath of Air but thro' the Iron Bars, they are now a little better, but no Friends allow'd to ſee them. I muſt now plainly tell you that I am afraid your Coſſ. *N. Clifton* is a very way, and a Perſon (whom he lately employ'd to manage ſome things for him particularly to compound his *South-Sea* bargain) has not been true to him, for his Creditors have actually put him

B. 27.

him in Irons, and except you can contrive to ſend him ſome relief from what Effects he put into your *Miſſiſippi*, for I don't find he has any other proſpect, that his Confinement will prove fatal to him. you know his worth and for Heaven's ſake don't neglect him.

Pleaſe to take my Compliments as due, and to tell Mr. *G. Sanford*, that I have not met with any opportunity of ſending his Trunk where he deſired as yet, but hope to do it in a few Days; and ſo my dear Friend I bid you heartily adieu.

Since I wrote this I hear my Lord *Orrery* is taken, and Orders given for ſeveral others. Mr. *E. King* is now drinking all your Healths with me and ſalutes you in general.

B. 28.

The Depoſition of William Squire, *one of His Majeſty's Meſſengers in Ordinary.*

WHO depoſeth, that when he apprehended Mr. *Chriſtopher Layer* by Virtue of a Warrant againſt him for High-Treaſon, he ſaw in the Chamber where the ſaid *Layer* then lay, one Caſe of Piſtols hanging on one ſide of his Bed, with a riding Sword hanging between them, and a common wearing Sword hanging in the ſaid Chamber; that on the other ſide of the Bed near the Chimney there was another Caſe of ſmaller Piſtols, that in the Cloſet of the ſaid Chamber there were two Guns and two Muſquetoons; that upon the Deponent's taking ſome of the ſaid Arms into his Hands, the ſaid *Layer* ſaid, have a care what you do, they are loaded; and that upon asking the ſaid *Layer*, what he did with ſo many Arms about him, the ſaid *Layer* replied, *You muſt know my Clerk and I are great Shooters when we are in the Country.* This Deponent ſaith further, that in another Chamber, which he thinks was next to the ſaid Bedchamber, he ſaw in a Writing-Desk a great number of Charges of Powder and Ball ready made up in Cartridges, that he did not number the ſaid Cartridges, but computes them to have been about forty or fifty, and the ſaid *Layer* being ask'd what occaſion he had for ſo many Charges ready made up, the ſaid *Layer* replied, *I keep them ready for any Journey I may have occaſion to make into the Country.* The ſaid Deponent obſerv'd, that there were alſo in the ſaid Writing-Desk two or three Moulds for caſting Bullets, and that in the ſaid laſt mention'd Chamber, or in the Cloſet of the ſaid *Layer*'s Bedchamber, there was a Cartridge-Box, and that in the ſeveral parts of the ſaid *Layer*'s Houſe, there were to the beſt of the Deponent's Remembrance, three or four Saddles.

Capt. & Jurat' die 29°. Septembris — *William Squire.*
1722. *Coram me* Temple Stanyan.

B. 29.

Examination of William Squire *one of his Majeſty's Meſſengers in Ordinary.*

WHO being ask'd concerning the eſcape of *Chriſtopher Layer*, Eſq; committed to his Cuſtody for High-Treaſon, ſaith, that on this 19th Inſtant *September*, between Eight and Nine a Clock in the Morning, he went to the Officer of the Guard at *Whitehall* to demand a Centinel might be poſted at his Houſe for the better ſecuring his Priſoner; that when he went out, he ordered his Son *William Squire* to ſtay with the ſaid *Layer*, and not to leave him till he the Examinant ſhould return, that in about a quarter of an Hour the Examinant return'd with a Centinel and a Corporal, and at his entrance into *Channel-Row*, heard a noiſe of a Priſoner being eſcaped: Whereupon he went immediately to the Waterſide, and together with the Corporal took Boat, and landed at the *King's-Arms Stairs* in *Lambeth*, where he was inform'd the Priſoner had landed; that being further inform'd which Way the Priſoner went after he landed, he purſued him to a Lane in the Way to St. *George's-Fields*, where he found the Priſoner taken by his Son-in-law *James Peterſon*, and two Watermen; that when he took the Priſoner into his Cuſtody again, he ask'd him how he could offer to ſerve him ſo, to go to ruin him and his Family, to which the Priſoner anſwer'd, *I don't love Confinement, and ſo I will tell my Lord* Carteret *when I ſee him; I am ſure I am not to be blamed, there's no body but what would have done the ſame.*

Capt. & Jurat' die 19. Septembris — William Squire.
1722. *Coram me* Temple Stanyan.

B. 30.

Examination of James Peterſon, *concerning the eſcape of Mr.* Layer.

WHO being ask'd concerning his taking *Chriſtopher Layer*, Eſq; who had eſcaped out of the Houſe of the ſaid *Squire*, ſaith, That being in Bed when his Mother told him the Priſoner was gone, he got up, and immediately took Boat, and landed at the *King's-Arms-Stairs* in *Lambeth*, where he ſaw the Priſoner land before him; that he purſued him with the Watermen who carried him almoſt to St. *George's-Fields*, and there took him; that

that the Prisoner upon his being so taken, told the Examinant, that he was sorry to see him, but that he had no Warrant nor Power to secure him; to which the Examinant answer'd, if he had no Warrant he would nevertheless secure him; that then upon the Prisoner endeavour'd to excite the Mob to rescue him, saying, *Gentlemen, it is very hard that you will let me be dragged away so; he having no Power to do it. and I being taken up only on Suspicion*; which he repeated very often. The Examinant further saith, That when the said Layer was taken, he said to the People who assisted in taking him, *For God sake let me go, it is only an Arrest, I have Money enough to satisfy you.*

Capt. & Jurat die 19o. Septembris 1722. *Coram me* Temple Stanyan.

James Peterson.

B 31.

Examination of James Peterson, *concerning the escape of Mr.* L[illegible]

WHO says that *Christopher Layer* a Prisoner that was in his said Father-in-law's Custody, made his escape last *Wednesday*, between Eight and Nine a Clock in the Morning; that his Mother calling to him to let him know that the said Prisoner was got away, the Examinant presently went to the *Privy-Garden-Stairs*, where he was told that the Prisoner above mention'd was gone off in a Boat towards the *King's-Stairs* at *Lambeth*, whereupon the Examinant immediately took a Boat and went thither after him, and that in his Passage over, he saw the Prisoner land on the other side at the *King's-Arms-Stairs* aforesaid, whither the Examinant likewise hastened, and being on Shoar, he immediately went in Pursuit of the said Prisoner, together with the Watermen that had carried him over. That being come within about fifty Yards of the Prisoner, he saw him turn the corner of a Lane, and when he came up to him, he found him stop'd by three Men, who together with the Watermen that brought the Examinant over, returned to his said Father's House, having met by the Way his Father and a Corporal that were coming to their Assistance.

Capt. & Jurat. 21. die Septembris 1722. *Coram me* Ch. Delafaye.

James Peterson.

B. 32.

Examination of Thomas Cook *and* James Brayne, *Watermen, the first Apprentice to* Christopher Pashley, *the other to* George Palmer, *both living in* Lambeth.

WHO says, That on *Wednesday* Morning last about Nine a Clock, being then at *Whitehall-Stairs*, where they usually ply, they were told that a Thief or a Pick-pocket was at the *Privy-Garden-Stairs*, and that they were going to Duck him, whereupon they immediately went thither, where being told by a Boy that he was gone over in a Boat, they jumpt into another Boat, but before they had put off, a Gentleman got into the Boat to them, and telling them that the Thief above mention'd had rob'd him, desired their Assistance to go in Pursuit of him, which they accordingly did; and upon their landing at the *King's-Arms-Stairs* at *Lambeth*, where they saw the Person they were in pursuit of, go on Shore, the Examinants and the Gentleman above mention'd run towards St. *George's-Fields*, the Examinant *Tho. Cooke* running the fastest had often sight of him, and when they came up to him, found him stopt by three Men. The Examinants further say, that the Gentleman that hired them to pursue the said Person, gave them Three Shillings, Eighteen Pence of which they gave to the Boy whose Boat it was they took from the *Privy-Garden-Stairs*, which Boy shew'd them the Boat in which the Person aforesaid had made his escape.

Capt. & Jurat. 21. die Septembris *Coram me* Ch. Delafaye.

The Mark of + *Tho. Cooke.*
James Brayne.

B. 33.

A Letter from Plunket *to* Layer.

London, *November* 8. 1720.

SIR,

I Had a Letter from my Friend at *Paris*, giving me some hopes of seeing him in a competent time to our mutual Satisfaction, but I am of opinion 'twont be so soon unless some Accident or other will forward his Law-Suit here.

I have no News to send you I can depend on, there is a Declaration handed about here, which they say is the *Pretenders*, 'tis well worded; they say the King was waylaid by some of the *Czar's* Men in his Way to *Holland*, which if true, *England* must declare War against him this Winter.

To

B. 33.

To my [illegible]king our Friend's Buſineſs looks with a better Aſpect than ever it did, when he gains his Point 'twill make amends for all Delays, both to himſelf and his Friends.

My Lord is Epiſh, and longs for the ſitting of the Parliament.

Henry Goring is gone off I don't know how; I hope to ſee you in Town ſoon, there will be nothing worth notice afore, if any thing occurs worth your Curioſity, you ſhall know it from,

S I R,

Your humble Servant,

J. Plunket.

B. 34.

A Letter from Chriſt. Layer *to the Lord* North and Grey.

Tueſday, 27 March 1722.

M[illegible]*O R D,*

I [illegible]ne honour to ſee her Grace after I parted from your Lordſhip yeſterday, and ſhe has been ſo good as to appoint *Thurſday* in the Afternoon for Diſpatch of my Affairs; ſo I [illegible]end my ſelf the favour of waiting on your Lordſhip that Morning. In the mean time time remain

Your Lordſhip's moſt obedient humble Servant,

Chriſ. Layer.

B. 35.

The Examination of Simon Swordfeger *Secretary to the Right Hon. the Earl of* Orrery.

29 Sept. 1722.

WHO ſays, he does not know of any Memorials that were drawn to ſolicit the Regent of *France* to ſend over Forces to invade theſe Kingdoms in favour of the Pretender, nor ever heard of any ſuch thing being in Agitation, nor of any Memorials to any other purpoſe whatſoever relating to any ſuch Deſign, That he knew *Philip Neynoe* and became acquainted with him by the means of one *Hamilton* a *Scotch* Man, who in ſometime after told him the ſaid *Neynoe* was concerned in writing the Freeholder, and deſired the ſaid *Neynoe* might be admitted to ſee ſome Law-Books in Lord *Orrery*'s Library, in which the Examinant aſſiſted him; That this Acquaintance with *Neynoe* began as the Examinant believes about four Months ago; That the ſaid *Neynoe* uſed to come once or twice a Week, and made uſe of ſuch Books of the ſaid Lord's Library as he thought fit: That the Examinant knows Mr. *Layer*, the firſt time he ſaw him was at Lord *Burlington*'s where he drank with him in Company with Mr. *Thompſon* Lord *Burlington*'s Chaplain, which he believes was about a Year and half ago; That he has ſeen the ſaid *Layer* at the Earl of *Orrery*'s once or twice, that he ſeldom ſees who comes to his Lord, the Examinant's Apartment being at a diſtance from thoſe where his Lordſhip ſees Company; That he was once ſent of a Meſſage to the ſaid *Layer*, and being ſhewn a Paper of Memorandums taken in the Examinant's Cuſtody, he does ſay it is a Paper of Memorandums of what he was to do whilſt his Lord was out of Town, that it is written in his ſaid Lord the Earl of *Orrery*'s own hand, and that what is mentioned in it concerning Mr. *Layer* is the Meſſage he was ordered to deliver. The Examinant ſays he knows Mr. *Plunket*, that their Acquaintance began at the ſame time with his Acquaintance with Mr. *Layer*, and upon the ſame occaſion of meeting in Mr. *Thompſon*'s Chamber at Lord *Burlington*'s; That they then talk'd of their Travels, (*viz.* *Plunket* and *Layer*) and of their having been at *Rome*; That ſince that time Mr *Plunket* has been frequently at Lord *Orrery*'s ſoliciting the Examinant to help him to ſell ſome Wine, that he does not know of the ſaid *Plunket*'s going by any other Name.

Simon Swordfeger.

Taken in the Glaſs Caſe of Mr. Swordfeger, *Secretary to the Earl of* Orrery, 27 Sept. 1722.

Swordfeger *own'd this to be* Lord Orrery's *Writing in his Examination, Dat. 29.* Sept.

Memorandum,

TO ſend that Volume of the Journals which I have left out to the Clerk of the Houſe of Lords, and to haſten the writing out thoſe which I have beſpoke.

To call upon Mr *Walters* before the end of this Month for that Leaſe which he is to draw for that Eſtate late *Roger*'s at *Marſton*, and to ſend it me down to *Brittel* that I may perfect it there, and ſend it up again.

When the two Hogſheads of Claret come out of the King's Cellar, let one of them be carry'd directly to Lord *Uxbridge*'s and not left here.

When Mr. *Lear* comes to Town if he has any thing material to ſay to me, and will take the trouble of coming down to *Brittel* for a few Days, we may have a good opportunity there you may tell him to talk together.

I would have the Shares in the Welſh Copper ſold if poſſible.

You muſt call upon Mr. *Innys* for the remaining part of the Books he is to ſend in.

The Information of Mr. Blackerby Fairfax, *Phyſician.*

WHO ſaith, That a little before *Chriſtopher Layer* (now in Cuſtody) went to *Rome*, Mr. *Jefferies*, late of *Bloomſbury*, *James Plunket* (now in Cuſtody) and he, the ſaid *Fairfax*, being accidentally together at a Tavern near *Red Lyon Square*, after ſome previous Diſcourſe, which he cannot at preſent recollect, *Jefferies* ſaid to *James Plunket*, *Plunket*, give the Doctor (meaning him, *Fairfax*,) a Commiſſion. Which Words this Informant underſtood to relate to a Commiſſion from the Pretender. That *Jefferies* ſaid further, to this Informant, *Plunket* has Commiſſions. That hereupon *Plunket* anſwered, he (meaning this Informant) does not wear a Sword. That *Jefferies* replied, then let him ſtand Kick and Cuff. That thereupon this Informant ſaid, What are we to do, and where ſhall we Rendezvous? To which Anſwer was made, (but he does not remember by which of them) that you ſhall know hereafter; and upon this Informant's ſhewing a Backwardneſs to accept of this Commiſſion, the Diſcourſe dropped. This Informant obſerved, that afterwards, whenever he met *Plunket* at *John's Coffee-houſe* in *Fuller's-Rents*, *Plunket* ſhewed a Shyneſs of him, and always took care to get out of the *Coffee-houſe*, as ſoon as this Informant; which this Informant ſuppoſed to proceed from a Jealouſy, that he might get him, *Plunket*, taken up.

This Informant farther ſaith, That *Chriſtopher Layer* frequented this *Coffee-houſe*, as well as he and *Plunket*, and that when *Layer* went Abroad, *Plunket* diſappeared; and after *Layer's* Return, it was the general Diſcourſe of the *Coffee-houſe*, that *Layer* and *Plunket* had been together at *Rome*.

This Informant farther ſaith, that he hath been acquainted with *Chriſtoper Layer*, (now in Cuſtody) upwards of fifteen Years, and that of late Years, ſince *Layer's* living in Town, he has been employed as Phyſician in his Family, and has inſtructed Mr. *Layer* in the Civil Law; that in the Courſe of this Acquaintance, he has often heard Mr. *Layer* ſpeak in Favour of the *Pretender* and his Cauſe, and that he, *Fairfax*, has frequently diſſuaded him from ſuch Thoughts.

That when *Layer* was going out of *England*, he, *Fairfax*, offered to accompany him, as far as *Dover*; but *Layer* declined it, telling him, there were thoſe going over along with him, who would not care to ſee him, *Fairfax*.

That upon *Layer's* Return to *England*, he the ſaid *Fairfax* frequently ſaw him, and heard him diſcourſe of his being at *Rome*; and that *Layer* promiſed to read to him a Journal of his Travels, which he had drawn up. That at ſome one of theſe Converſations, Mrs. *Layer* was preſent, and mention'd a Lady that was in her Husband's Company at the Paſſage of the *Alps*.

That about a Fortnight before the Duke of *Marlborough's* Funeral, *Layer* told him, that he thought a favourable Opportunity would ſoon offer, for beginning an Inſurrection in Favour of the *Pretender*. That about a Month before *Layer's* being taken up, he, *Fairfax*, diſcourſing with the ſaid *Layer*, about what happened during his Stay at *Rome*, *Layer* told him, that while he was there, he was admitted to a private Audience with the *Pretender*; that during his Audience, a *Scotch* Colonel broke in upon them; upon which the *Pretender* took *Layer* into another Room, and that there he, *Layer*, delivered his Credentials to the *Pretender*. But he did not explain to *Fairfax* of what kind his Credentials were.

This Informant farther ſaith, that at ſome other Time (which to the beſt of his Remembrance, was as long ago as laſt Spring,) *Layer* told him, that the *Engliſh* were backward and cowardly, but that the *Scotch* had already enter'd into an Aſſociation, for bringing in the *Pretender*. That about two or three Days before *Layer* was taken up, *Layer* told him that Matters were now concerted, (by which Mr. *Fairfax* underſtood, that the Inſurrection in Favour of the *Pretender* was going to be ſet on Foot,) and that if he, *Fairfax*, would join with them, *Layer* hoped to procure him a good Poſt; to which *Fairfax* anſwered, That they would make ſuch another Piece of Work of it as the fifth Monarchy Men did. Upon which Mr. *Layer* asked him, How many they (the fifth Monarchy Men) were? *Fairfax* anſwered, about Thirty. To which *Layer* anſwered, That they (meaning the Perſons engaged in the Inſurrection) were Thirty Thouſand.

B. 36.

That at ſome other time, *Layer* told him, that they (meaning the Conſpirators) expected that a Part of the Army would come over to them; and that though it ſhould happen to be but a ſmall Part of the Army, yet they ſhould be able by Rumours to magnify it, ſo as to make it appear very conſiderable.

Blackerby Fairfax.

Jurat. 30 die Novem. 1722.
Coram me

Townſhend.

B. 37.

The further Depoſition of Blackerby Fairfax, *M. D.*

WHO ſays, he has been acquainted with *Chriſtopher Layer* about fourteen Years; and for about four or five Years paſt, he has ſometimes read to him the Civil Law and *French*. That upon the Deponent's reading the printed Tryal of the ſaid *Layer*, coming to this *Motto* to his Scheme, as it ſtands in the Book, *A defaut de la Force, il faut employer la Ruſe*; it ſtruck him, and made him recollect the following Paſſage: That one time, when he was reading *French* to the ſaid *Layer*, he asked the Deponent the meaning of that *French* Sentence, and the Deponent explained it to him: Upon which, *Layer* told him, it had been explained to him before in the ſame manner.

Jurat 120 die Feb. 17$\frac{1}{2}\frac{2}{3}\frac{4}{}$ *Bl. Fairfax.*
Coram me

Ch. Delafaye.

B. 38.

Copy of the Examination of Chriſtopher Layer, *before the* Committee *of the* Houſe of Commons, *on the 19th of* January, *and 4th of* February, 1722.

THE Committee having compared the ſeveral Parts of your Examinations, with each other, as well as with the other Papers before them, obſerve ſeveral Inconſiſtencies and Contradictions in your ſaid Examinations; and therefore expect you would give plain and ſatisfactory Anſwers, to the following Queſtions.

What Particulars, have at any Time come to your Knowledge, any Ways relating to the Conſpiracy?

TO the firſt Queſtion, he *Chriſtopher Layer*, anſwers, That he was bred up in *Norfolk*, under an Unkle, who was a *Non-Juror*, and having Expectations of an Eſtate from that Unkle, he imbibed thoſe Principles early, and upon coming into the World, obſerved various Opinions entertained concerning this King and the other. That having a particular Affair to tranſact between Lord *Yarmouth* and Lord *London-derry*, he had learnt that a Siſter of Lord *Yarmouth*'s was Married to a *Venetian* Miniſter, reſiding here in King *Charles* the Second's Time; that a Portion of Six Thouſand Pounds was ſettled on that Lady, which he ſaw Reaſon to believe was never paid; and that having heard from *John Plunket* (who ſometimes went by the Name of *Rogers*)

Rogers) of a Son of this Lady's, who was formerly at *Utrecht*, and talked of coming over hither to ſollicit this Affair, he thought it might be an acceptable Service to that Gentleman, to acquaint him with the Nature and Circumſtances of that Demand. That this Affair, and a natural Inclination and Curioſity which he had always had to ſee the *Pretender*, whom he had heard ſo much of, carried him into *Italy*; that he ſet out from *England* on the 1ſt of *April* 1721, and went firſt to *Venice*, where he met with Seignior *Alberti de Conti*, Son to the *Venetian* Miniſter above-mention'd, who thanked him for the Trouble he had given himſelf, but told him he was already acquainted with the Particulars of the Demand relating to his Mother's Portion, and intended to come over to ſollicit that Affair himſelf. That he, *Layer*, finding himſelf now within three or four Hundred Miles of *Rome*, reſolved to go thither, arrived there about the End of *May*, 1721, and ſtaid there about five Weeks.

That as it is the Cuſtom for all *Engliſh* Gentlemen who are at *Rome*, to Viſit any of their own Nation, on their firſt Arrival there, ſome of the *Engliſh* who were there in their Travels, came to Viſit him, but that he deſiring to be *incognito*, ordered his Servant to deny him. That after he had been a Day at *Rome*, he ſent to *Francis Kennedy*, Secretary to the *Pretender*, to let him know he ſhould be glad to ſee him, and to renew his Acquaintance with him. Being asked, when and where he firſt became acquainted with *Francis Kennedy*? He ſays, that *Kennedy* had a Brother, Secretary to the late Duke of *Ormond*, with which Brother he had ſome Acquaintance, and he thinks he has formerly been in *Francis Kennedy*'s Company at *London*, along with the other Brother; but as to this Particular, he cannot be poſitive.

That upon his ſending to *Francis Kennedy*, as above, the ſaid *Kennedy* came to him at his Lodgings, which he, *Layer*, was ſurprized at, it being in the Face of all the *Engliſh* Gentlemen; that he deſired *Kennedy* to introduce him to the *Pretender*, which *Kennedy* promis'd to do; that the next Night *Kennedy* came to him again, and told him, he need not be uneaſy, at his coming to his Lodgings openly, ſince he frequented the Company of all the *Engliſh* that came to *Rome*, without Diſtinction, but he would introduce him to the *Pretender* privately in an Evening, ſo that no Body ſhould be able to prove it. And he, *Layer*, further ſaith, That at the ſame time he believes *Kennedy* gave *Plunket* a Letter under the *Pretender*'s

tender's own Hand, when *Kennedy* and *Plunket* were alone together; for the next Day Morning, as he, *Layer*, lay in Bed, in a Room next adjoining to that where *Plunket* lodged, *Plunket* came to *Layer*'s Bed-ſide, and told him with ſeeming Satisfaction, that he had got a Letter under the King's own Hand, meaning the *Pretender*'s; but *Kennedy* never ſaid one Word of this Letter to *Layer*. The ſaid *Plunket* ſhewed him the Letter, the whole of which he, *Layer*, takes to have been writ in the ſame Hand in which the Blank Receipts, taken among his Papers at Mrs. *Maſon*'s, were ſigned, which he believes to be the *Pretender*'s own Hand. That the Subſtance of the Letter was, That the Bearer, *Francis Kennedy*, would introduce *Plunket* to the *Pretender*. He, *Layer*, ſaith, He cannot be poſitive, whether it was ſaid in the Letter that *Kennedy* would introduce *Plunket* only, or whether he himſelf was likewiſe mentioned, as to be introduced to the *Pretender* by *Kennedy*. That he, *Layer*, believes, and was informed by *Plunket*, that he, *Plunket*, ſaw the *Pretender* the Night before he, *Layer*, was introduced to him. That *Kennedy* told him, the next Day the King (meaning the *Pretender*) would be buſy receiving Viſits, but he, *Layer*, ſhould come at Ten at Night, and walk without in the Square before the *Pretender*'s Houſe, where Coll. *Haye* and *Kennedy* would meet him. That he accordingly went thither, and was met by *Haye* and *Kennedy*, who conducted him up a Pair of back Stairs into a long Gallery, and through ſeveral Rooms. That *Haye* went into a Room beyond, and coming out again, preſently carried *Layer* in to the *Pretender*, whom *Layer* ſaluted. That the *Pretender* asked the Occaſion of his coming, and enquired much of him, whether he had any Credentials from People in *England*? That *Layer* anſwer'd, Nothing but Curioſity, and a Deſire of paying my Duty to your Majeſty, has brought me hither. That the *Pretender* asked him, What Lords he knew? To which he anſwer'd, None but thoſe he was concerned with in the way of his Profeſſion. That the *Pretender* ſaid, What have you no Credential or Recommendation at all, from any Perſon in *England*? This Journey muſt have been very expenſive to you, I believe it cannot coſt you leſs than Five Hundred Pounds. To which he replied, that a private Affair which brought him to *Venice*, would have defray'd the Expence, if it had ſucceeded; but that having miſcarried in that, his Inclination drew him on to *Rome*, to pay his Duty to the *Pretender*, and that he had long had it in his

Thoughts

Thoughts and Inclinations to pay his Duty to him, ſo took this Opportunity of doing it. That one *Plunket*, who was now along with him, had often told him, *Layer*, that he need not fear being introduced; or to that Effect. So he, *Layer*, ſaid, he preſumed to come to pay his Reſpects. That then the *Pretender* asked him which way he came, and who conducted him in his Travels? To which he anſwer'd, that the ſaid *Plunket* was inſtead of a Governour to him, ſpeaking ſeveral Languages. Upon which the *Pretender* ſaid, I believe that *Plunket* is a very honeſt Man, and as proper a Perſon as you could have had for a Companion. That the *Pretender* again expreſs'd himſelf ſurprized at his having no Recommendation from any Perſons in *England*, but ſaid, I am informed by *Francis Kennedy*, who knows you, that you have a very good Character; and for that Reaſon you are welcome without any Credentials. That the *Pretender* then asked him what County he was of, what Relations and Friends he had? He replied, that he was of *Norfolk*, that he was bred up there under his Unkle, who, with Sir *Nicholas L' Eſtrange*, were the only two old *Non-Jurors* in that County. That the *Pretender* asked him, what other *Norfolk* Gentlemen he knew? To which he anſwered, That he knew all the *Tories*. That the *Pretender* asked him, if he could recollect their Names, and put them down in Writing? That he, *Layer*, anſwered, He could eaſily do that, for that he had brought with him *Memorandums* of their Names; and that accordingly he, *Layer*, drew up a fair Liſt of the *Tory* Gentlemen of *Norfolk*, (there might be for ought he knows ſome *Suffolk* Gentlemen in it, Borderers upon *Norfolk*,) and he, *Layer*, at the ſecond Interview with the *Pretender*, gave the ſaid Liſt to the *Pretender*, thinking it would be acceptable to him, they being Perſons, whom he, *Layer*, look'd on as well inclined to the *Pretender*'s Intereſt.

That he ſaw the *Pretender* a ſecond time. That the *Pretender* then asked him, whether he would not ſee the Queen, (meaning his Spouſe) and promiſed ſhe ſhould admit him, *Layer*, to kiſs her Hand?

That about three Weeks or a Month after, *Kennedy* came again to *Layer*, and invited him to meet him in the ſame place, in order to ſee the *Pretender*'s Spouſe. That *Haye* and *Kennedy* introduced him to her, and that he kiſſed her Hand. That the *Pretender*, and ſhe, diſcourſed him again about his Travels, and what he had ſeen at *Rome*. That the *Pretender* call'd him to him, and aſk'd

him whether he had any Thing to ſay in relation to his Liſt? That *Layer* ſaid, I forgot ſomething which I had to communicate to your Majeſty. Upon which the *Pretender* ſaid that his Wife would go out of the Room preſently; and ſoon after ſpoke to her in *Italian* (to withdraw, as *Layer* believes) Upon which Coll. *Hay* came in, and led her out. That the *Pretender* then ſat down, and asked *Layer*, what he had to ſay? That the Door being open, *Layer* look'd that way, and the *Pretender* bid him ſhut it; that he then came and ſtood over againſt the *Pretender*, and began to ſpeak; but the *Pretender* being at that time ſomewhat thick of Hearing, roſe, and bid him walk with him. That *Layer* then ſaid to the *Pretender*, I have nothing ſo material to offer, as ought to have procured me this great Honour and Indulgence from your Majeſty, but if there be any Service upon Earth, I can do, I am moſt ready. That the *Pretender* ſaid, what can you do? Have you any Acquaintance? To which he replied, That all the Perſons mentioned in his Liſt, were entirely devoted to the *Pretender*'s Intereſt, and all the Gentlemen in *England* the ſame, except thoſe, in Places of Profit and Truſt; and that all Parties were united in his, the *Pretender*'s, Intereſt. That the *Pretender* then asked him, What the Gentlemen were, whoſe Names were in his Liſt? To which he replied, They were all *Tories*; and that he had not put down any of the *Roman Catholicks* of *Norfolk*, of whom there were ſeveral Men of Eſtates. That the *Pretender* ſaid, he believ'd the People in *England* were generally well inclin'd to his Cauſe, and pretty well convinc'd of their Error; then ſpoke of the Diſcontents occaſion'd by the *South-Sea*; of Lord *Marlborough*'s Weakneſs and Indiſpoſition; and enquir'd, to whom that great Eſtate was likely to go. That the *Pretender* afterwards ſaid, You are very kind, and you may depend on any Service I can do you. That *Layer* replied, As I have not the Happineſs to be acquainted with any of the Nobility in *England*, if your Majeſty would do me the Honour to give me ſome Token, by which I may introduce my ſelf to their Acquaintance, I will employ all my Labour and Induſtry, to ſerve your Majeſty. That the *Pretender* ſaid, he ſhould be glad to give him any Token of his Kindneſs. That he, *Layer*, deſir'd the Queen (meaning the *Pretender*'s Spouſe) would do him the Honour to ſtand Godmother to his Child, as a Means and ſufficient Token, for giving him Credit with People of Quality in *England*, in the *Pretender*'s Intereſt. That the *Pretender* ſaid he muſt conſider of it, and would

ſend

ſend him an Anſwer. Then enquired of him how long he ſhould ſtay? To which he replied, I have no other Buſineſs here, but to pay my Duty to your Majeſty, and intend to ſet out in two Days. That the *Pretender*, enquired what Route he intended to take, adviſed him againſt going through *France*, on Account of the *Plague*, and (*Layer* having before made Application to him, for his Paſſport to go through *France*) the *Pretender* ſaid, they would not let even me paſs that way; then enquired, whether *Plunket* went back with him? To which *Layer* anſwered, that he did; being neceſſary to him on Account of the Languages. That then the *Pretender* wiſh'd him a good Journey, and ſaid he would ſend him an Anſwer in Relation to the Chriſtening the next Day. That accordingly the next Day Coll. *Haye* came to him, and told him, that the *Pretender*'s Spouſe conſented to ſtand God-mother to his Child. That *Layer* deſired ſome Token, by which he might apply to ſome Perſon of Quality in *England* to repreſent her, and that the *Pretender* would name ſome Lord or Perſon of Diſtinction in *England*, to ſtand with her; and he, *Layer*, deſired to know, whether the Dutcheſs of *Ormond* would not be agreeable to the *Pretender*'s Spouſe, to repreſent her at the Chriſtening? That Coll. *Haye* anſwered, The Dutcheſs of *Ormond* would be a proper Perſon to repreſent her; that no Letter could be ſent by *Layer*, but Care would be taken the Dutcheſs of *Ormond* ſhould repreſent the *Pretender*'s Spouſe, at the Chriſtening. That Coll. *Haye* ſaid, You will need no other Token, than to tell the Dutcheſs that her Husband is well, and gone to *Madrid*. That *Haye* further ſaid, the *Pretender* would not Name any Lord to ſtand God-father with her, but would himſelf ſtand God-father, with his Spouſe, to *Layer*'s Child; and that he, *Layer*, muſt get ſome Lord in *England* to repreſent the *Pretender*, at the Chriſtening of the Child.

That he, *Layer*, left *Rome* about the beginning of *July*, 1721, and returned to *England* the latter End of *Auguſt*, or the beginning of *September* following.

That upon his Return he waited upon the Dutcheſs of *Ormond*, and deſired her to ſtand God-mother to his Child, adding, that he hoped her Grace was not altogether a Stranger to that Affair. That her Grace made him no particular Anſwer, but promiſed him to ſtand, as deſired.

That he then made Application to Lord *Orrery*, by *Swortfeger*, Lord *Orrery*'s Secretary, and by *Thompſon*, whom he took

took to be Chaplain to the Dutcheſs of *Ormond*; and to be acquainted with Lord *Orrery*, as he knew he was with *Swortfeger*, to deſire that Lord *Orrery* would ſtand God-father to his Child, with the Dutcheſs of *Ormond*. That he believes Lord *Orrery* knew that he was deſired to ſtand for the *Pretender*, and that *Thompſon* knew the ſame by *Swortfeger*. That hereupon Lord *Orrery* ſent to the Dutcheſs of *Ormond*, to know whether ſhe intended to ſtand, who ſent him word ſhe did; that, however, Lord *Orrery* deſired to be excuſed; but afterwards, upon further Acquaintance with *Layer*, and upon hearing that Lord *North* and *Grey* had conſented to ſtand, Lord *Orrery* ſent to him, *Layer*, to make Excuſes for this Refuſal. That he, *Layer*, made this Application to Lord *Orrery*, having heard that he was in the *Pretender*'s Intereſt; and hoping to make uſe of this Credential with Lord *Orrery*, to induce him to converſe freely with him, in Relation to the *Pretender*'s Affairs.

He, *Layer*, further ſaith, That he was not at that time acquainted with Lord *North* and *Grey*, any further than by having been twice to wait on him in Relation to a Cauſe depending in the *Houſe of Lords*, about an Eſtate of the Lord *Kingſton*'s, of *Ireland*. That upon Lord *Orrery*'s declining to be God-father to his Child, he went to Lord *North* and *Grey*, and told him, the Dutcheſs of *Ormond* had promiſed to ſtand God-mother to his Child, that he deſired the Favour of his Lordſhip to ſtand with her Grace; and that if he would be pleaſed to ſee her Grace, ſhe would acquaint his Lordſhip with Particulars. That my Lord *North* ſaid he would wait on her Grace the next Day, and if ſhe would ſtand, he would. That he, *Layer*, believes my Lord *North* underſtood he was to ſtand for the *Pretender*. That this Tranſaction was the beginning of his Intimacy with Lord *North* and *Grey*; that the Dutcheſs of *Ormond*'s Illneſs, during the Winter, occaſioned the Chriſtening to be deferred till the *Eaſter* following, at which time her Grace being well enough to go to *Chelſea*, appointed a Day for the Chriſtening, with which he, *Layer*, acquainted Lord *North* by Letter; that in the *Eaſter-Holy-Days* his Child was Chriſtened by *Thompſon* above-mentioned, at Mrs. *Foxe*'s Lodgings at *Chelſea*, and named *Mary Clementina*; no Body being preſent but the Dutcheſs of *Ormond*, Lord *North*, Mr. *Thompſon*, and *Layer* and his Wife, and Mrs. *Fox*, as he believes; but of this laſt he can't be poſitive.

That after this, he, *Layer*, and Lord *North* and *Grey*, became better acquainted, and

and that he having been told, Lord *North* had ſometimes occaſion to borrow Money, endeavoured to recommend himſelf to him by Services that way. That as their Acquaintance improved, Lord *North* invited him ſometimes to ſtay Two or Three Days at his Houſe at *Epping*. That by this Time he had heard that Lord *North* was in the Pretender's Intereſt, and took Occaſion to let his Lordſhip know, that he had heard ſo, and to aſk him whether nothing could be undertaken in the Pretender's Favour, his Lordſhip being a Military Man? That my Lord *North* replied, he believed the Pretender had Friends enow, if they could but underſtand one another; that he, *Layer*, aſked him how he found the Army inclined; that Lord *North* anſwered, Very well: I believe moſt of the Half-pay Officers are well inclined to the Pretender, and the Army in General well affected; that he, *Layer*, replied, ſure it is ſtrange then, that nothing can be done in the Pretender's Favour. That this firſt Converſation happened ſoon after the Chriſtening of his Child.

That in *July* laſt, he, *Layer*, going down to *Norfolk*, on the Circuit, dined with Lord *North*, at his Lordſhip's Houſe at *Epping*; and in his Return from *Norfolk*, called there again. That Lord *North* invited him to come and ſtay Two or Three Days; and walking with him in the Garden, he, *Layer*, took Occaſion to aſk Lord *North*, Whether nothing could be done in favour of the Pretender? To which Lord *North* anſwered, No; How can any Thing be done, while ſo great a Body of Forces is encamped under the very Walls of *London*, beſides the Encampments in other Parts of the Kingdom? That he, *Layer*, replied, If the Soldiers were but well inclin'd to the Pretender, he believ'd the Nation in general were ſo; that he found moſt of the Gentlemen in *Norfolk* Jacobites. That Lord *North* replied, You mean that moſt of them are Tories. That he, *Layer* anſwered, No; thoſe that were Tories before, are Jacobites now. That Lord *North* ſaid, it was the ſame in other Counties. That he, *Layer*, replied, It is ſtrange then that nothing can be done, no Scheme form'd, no Deſign executed in favour of the Pretender. That Lord *North* anſwered, Nothing can be done till the Camp breaks up. That he, *Layer*, then deſired to know of his Lordſhip, Whether any Scheme was form'd, any Method concerted? Adding, there was nothing to be done, except Lord *North*, and the other Lords in the Pretender's Intereſt, would form ſome Scheme. That Lord *North* anſwered, There is no occaſion for much Scheming; What does your Friend Lord *Orrery* think of Things? That he, *Layer*, ſaid, Lord *Orrery* thinks nothing can be done without a Foreign Force. That Lord *North* replied, I can't be of his Opinion, I believe the People of *England* may do it of themſelves. He, *Layer*, being here aſked by the Committee, How Lord *North* came to know that Lord *Orrery* was his (*Layer*'s) Friend? Says, that he had acquainted Lord *North* with his applying to Lord *Orrery* to ſtand Godfather, with Lord *Orrery*'s refuſing, and afterwards excuſing that Refuſal, with his viſiting Lord *Orrery* frequently, and what was the Subject of their Converſations. *Layer* further ſaith, That he went frequently to Lord *North*'s, during the Vacation, and in ſome other Converſation preſſed Lord *North* again about forming a Scheme; to which Lord *North* replied, We Soldiers don't trouble our ſelves much about Schemes; be you quiet, ſomething will be done. He, *Layer*, further ſaith, That being afraid, from the Converſations he had had with Lord *North*, that all might end in Talk only, except ſome Scheme was form'd; he ſtill continued to preſs his Lordſhip on that Head, by ſaying, that he thought an Attempt in favour of the Pretender might be Practicable, even during the Encampment; that there were Reports about Town, of Lord *North*'s, and other Lords being to be taken up; that if they ſhould, there would be an end of all, ſince the leſſer People would be diſcourag'd, when the Lords ſhould be confin'd. That the Camp was likely to continue till *Chriſtmas*, and the Parliament ſoon to meet, with other Particulars, in order to get the Knowledge of the real Deſign; but that Lord *Orrery*, and Lord *North*, if they had form'd any particular Scheme, would not truſt him with it; and he thinks he ſhould have known, if they had had any ſettled concerted Scheme.

He, *Layer*, farther ſaith, That he was by this Time acquainted with *Stephen Lynch*, who was brought to him by Dr. *Murphey*, and repreſented as a Man addicted to the Pretender's Intereſt, and as one of ſome Circumſtances and Character, keeping good Company in the City. That within Two or Three Days after, *Lynch* came of himſelf to viſit him, and offered his Service to help him to Wine. That in the Courſe of their Acquaintance, having had ſome Converſation together, relating to the Pretender's Affairs, *Lynch* told him, that he underſtood he (*Layer*) was acquainted with Lord *North and Grey*, and *Lynch* preſſed him much to carry him to the ſaid Lord's, having, as he ſaid, ſomething to propoſe to Lord *North*, that might be of great Service to the Pretender's Cauſe, and expreſſing a great Curioſity to ſee Lord *North*'s Houſe and Gardens at *Epping*. That he, *Layer*, told him, Lord *North* did not care to converſe with Strangers; however, promiſed to carry him thither, which he accordingly did. That in their way, being too late for Dinner at Lord *North*'s, they call'd at the *Green Man* at *Epping*, where they ſtaid about Three Quarters of an Hour. That when they went up Stairs, *Layer*'s Servant follow'd them into the Room, in order to bring up a double Barrell'd Gun, which they

carried with them; that before the Servant left the Room, *Lynch* went down Stairs to ſome Company below, and coming up again ſoon after, told *Layer* there were Two honeſt Gentlemen below, with whom he muſt ſpeak a Word, and then went down again; ſo that they were not alone in the Room any Time before Dinner; and that he, *Layer*, did not ſhew any Papers to *Lynch* till after Dinner, and then only ſhew'd him a Memorandum tranſcribed out of the Prince of *Orange*'s Declaration, and ſome other Memorandums.

That they afterwards went on to Lord *North*'s, and found him in his Garden with a Stranger; ſome Company who had dined there being juſt then taking Coach: That Lord *North* coming in, asked *Layer*, Who *Lynch* was? That he told Lord *North*, he was an honeſt Gentleman recommended by a particular Friend: That Lord *North* ſaid, I wonder you would bring him; you know, I am not eaſy or free before Strangers; that Lord *North* drank to him, *Layer*, and to *Lynch* (Captain *Fitzgerald*, and another Gentleman being in the Room) and then ſhew'd them the Gardens; that when they came in again, Lord *North* asked *Lynch* to play at Tables, to paſs away the Time till Supper; that he ſupped there; and after Supper, Lord *North* began the Healths of the King, the Queen, and the Prince; the Diſcourſe was on indifferent Matters. Lord *North* enquir'd of *Lynch*, Whether he was in the Army? *Lynch* ſaid, No; he was born in *Flanders*, and bred up to Merchandize; but that he had been with the Pretender in *Scotland*, and had the Command of a Ship under the King of *Spain*, in the Deſcent on *Scotland*; and enlarg'd much on his Loyalty and Zeal for the Pretender; that Lord *North* turn'd the Diſcourſe to other Subjects. That the next Morning they walked in the Gardens, and diſcourſed about indifferent Matters till Dinner; that after Dinner, Lord *North* began the ſame Healths of King, Queen, and Prince; and ſoon after, *Lynch* and *Layer* took their Leaves, and return'd to *London*. That not long after, he, *Layer*, went down to Lord *North*'s at *Epping*, in order to ſtay two or three Days, and ſhoot; it being in Partridge Seaſon. That the next Day, *Lynch* came down thither of himſelf; which he, *Layer*, was ſurprized at; that Lord *North* told *Lynch*, he was glad to ſee him, and asked him to take a Glaſs of Wine, Captain *Fitzgerald* being by. That he, *Layer*, went out a ſhooting, and at his Return *Lynch* was gone: That upon his making ſome Excuſes for *Lynch*'s intruding, Lord *North* ſaid, *Lynch* was a good honeſt Fellow, and had entertained them with ſeveral merry Stories.

That he, *Layer*, at that Time again preſſed Lord *North*, to bring Matters to ſome Iſſue in Favour of the Pretender; ſaying, If ſomething be not done ſpeedily, we ſhall all be taken up; that Lord *North* anſwered, Is not the Camp there ſtill, if you can find any Expedient it would be well, it is more than I can do; that he, *Layer*, replied, it was his Opinion, ſomething might be done notwithſtanding the Encampment continued.

Layer, farther ſaith, that being reſolved to try, Whether Lord *North* and his Friends were in earneſt or not, he did to this End, endeavour to draw up a Scheme himſelf; and having drawn it up, lodged it with Mrs. *Maſon*, the Day before he was taken up. That he intended to have communicated this Scheme to Lord *North*, and Lord *Orrery*. That he talked with one *Wilſon*, formerly a Serjeant or Surgeon in the Army; with *Murphey* formerly a Soldier, but now a Phyſician; and *Others* on the Subject of it, before it was drawn up. Being asked who thoſe others were, ſays, he can recollect no one elſe, but one that called himſelf Serjeant *White*, whom he ſaw in Company with Dr. *Murphey*, at the *Fountain* Tavern in *Catherine* Street near the *Strand*; of which Serjeant *White*, he, *Layer*, enquired, How far ſome Particulars in his Scheme were practicable? That he, *Layer*, deſired *Wilſon* abovementioned, to enquire of the Soldiers, Whether ſome Parts of his Scheme were practicable or not? That his Deſign in drawing this Scheme, was to learn, Whether Lord *Orrery*, and Lord *North*, had a Scheme or not; and what it was they intended to do in Favour of the Pretender. That when he went to Lord *North*'s with *Lynch*, he carried a Paper containing ſome Part of his Scheme, or Memorandums relating to a Declaration, and offer'd them to Lord *North*, as he was walking with him in the Garden; but Lord *North* ſaid, all was impracticable during the Encampment.

This general Narrative, he ſays, contains the Subſtance of all he can recollect at preſent, till the Committee ſhall deſcend to the particular Queſtions, which they had acquainted him they had before them drawn up in Writing; by which Queſtions, he ſuppoſes, ſome Particulars may be brought to his Memory, which may eaſily have eſcaped him in relating Matters that were tranſacted at ſo many different Times and Places,

The Committee, before they read to him the Queſtions in Writing, put the following Queſtion to him, ariſing from the Matter of his Narrative.

Mr. *Layer*,

By the Account you give of what paſſed during your Stay at *Rome*, you would have the Committee believe, that the Pretender was at firſt ſhy of admitting you to a Conference, on Account of your bringing no Token or Credential from his Friends in *England*. And that you your ſelf were ſo little truſted in *England*, that you thought it neceſſary to ſollicit

ſollicit ſome Token or Credential from the Pretender to his Friends of the Nobility here, in order to gain your ſelf ſome Degree of Truſt and Confidence with them: That you were able to obtain no other Credential, than that of the Pretender and his Spouſe's anſwering for your Child; and that even when this was granted, you could not prevail to be your ſelf truſted with a Letter or Token to notify this Intention in your Favour. The Committee deſire you would explain to them, how this can be reconciled with your being ſo ſoon after admitted into ſuch a Degree of Confidence, both at *Rome* and here, as to be truſted with negotiating ſeveral blank Receipts under the Pretender's own Hand, as it appears you were by the Papers you delivered to Mrs. *Maſon*?

To this Queſtion he anſwers, That, during his Stay at *Rome*, he contracted a Friendſhip with Sir *William Ellis*, who is a Servant to the Pretender; and after his Return to *England*, he held a conſtant Correſpondence with Sir *William Ellis* at *Rome*, and gave him Accounts from time to time, how the Pretender's Affairs went on here: That he writ to *Ellis*, that he had got acquainted with *Burford* and *Sims*, by which Names he meant Lord *Orrery* and Lord *North* and *Grey*; and that he believed, if he had ſuch Receipts, he could raiſe a conſiderable Sum of Money upon them, and thereby put the Pretender's Affairs here in a much greater Forwardneſs: That he believed, with the Money ſo raiſed, he could engage a conſiderable Part of the Army in the Pretender's Intereſt.

Being asked by the Committee, What Reaſon he had to believe he ſhould be able to raiſe Money? He ſays, he did intend to have put off ſome of the Receipts in *Norfolk*. Being asked again by the Committee, Whence this Aſſurance came? He ſays, he did imagine that many of the *Norfolk* Gentlemen, whoſe Names were on the Liſt he gave to the Pretender, would contribute Money on theſe Securities; and that a Precedent of the like Nature juſt before the Reſtoration, put this Thought into his Mind. He ſays that he writ to *Ellis*, that he was pretty ſure, Receipts under the Pretender's own Hand would raiſe a good Sum; that he did not mention any Sum in his Letters, but hoped to have raiſed Twenty Thouſand Pounds this way.

Being asked by the Committee, Whether he had ſpoke to any particular Perſons about raiſing Money this way, or had ſhewn the Receipts to any body? He anſwers in the Negative. Being deſired to recollect, he ſays he did not ſhew them to any one, as he remembers; but believes, he did mention to Lord *North* and Lord *Orrery* his having ſuch Receipts in his Poſſeſſion; and that they ſaid, they believed they would be of little Uſe; for that People would ſcarce venture to keep ſuch Receipts by them, or to have them in their Cuſtody, or Words to that Effect: That he received thoſe Receipts from Sir *William Ellis* at different times by the Poſt; and that the firſt of them came to his Hands the latter End of *July* laſt.

Then the Second Queſtion was read to him in the following Words:

What was the Occaſion of your Journey to *Rome*? Had you any Invitation or Encouragement from Abroad before you undertook it, and from whom?

As to the firſt Part of the Second Queſtion, he refers to his Narrative. To the Second Part anſwers in the Negative; but ſays, when he came to *Antwerp*, *Plunket* told him, he had received a Letter from General *Dillon* in *France*, whom he, *Plunket*, had deſired him to write to him at that Place; by which Letter he, *Plunket*, found they ſhould be well received at *Rome*.

Then the Third Queſtion was read to him in the following Words:

Had you any previous Meeting with any Perſons at Home? Did you receive any Inſtructions, or any Money for the Charges of your Journey, and from whom? Did you carry over any Meſſages, Letters, Credentials, Liſts of Names, or Aſſurances of Service to the Pretender or his Agents, and from whom? And can you inform the Committee, where ſuch Liſts of Names may probably be found?

To the Third Queſtion he anſwers, That he had no Meeting with any Perſons at Home previous to his Journey; received no Inſtructions nor Money for the Charges of his Journey; that he carried over no Meſſages, Letters, Credentials, Liſts of Names, or Aſſurances of Service to the Pretender or his Agents; excepting only the Liſt of *Norfolk* Gentlemen, which he drew up himſelf, and gave to the Pretender.

Then the Fourth Queſtion was read to him in the following Words:

At what Time, and on what Occaſion, did you firſt become acquainted with *John Plunket*, alias *Rogers*? Has he at any time acquainted you with his being employ'd by the

To the Fourth Queſtion he anſwers, That he firſt became acquainted with *Plunket* four or five Years before their Journey to *Rome*. That he met him accidentally at Lord *Yarmouth*'s diſcourſing of Projects: That Lord *Yarmouth* ſpoke well of him: That the Account

the Pretender or his Agents, and which of them, in carrying on the Conſpiracy? What was the Occaſion of *Plunket*'s going Abroad, and of his deferring his Journey for ſome time after it was concerted with you; of your ſtaying for him, and bearing his Expences when you went?

count he heard of him was, that he had been bred a Scholar, underſtood Languages, and was employ'd in Lord *Oxford*'s Time in ſeveral odd Affairs; and was to have received Five Hundred Pounds from Lord *Oxford*, if he could have brought Count *Gallas*'s Secretary from *Vienna*, to atteſt the Copy of a Letter writ by Count *Gallas*, and procured by *Plunket* from his Secretary: That *Plunket*'s Buſineſs is to travel with young Gentlemen as Interpreter; that he has heard him call'd, Counſellor *Plunket*. That *Plunket* never told him whom he was employ'd by particularly; but own'd to him ſeveral times, that he had been employ'd many Years in the King's, meaning the Pretender's Affairs, and enquired often of him, *Layer*, how the Pretender's Affairs went on; but he thought *Plunket* one of ſo dark and ſuſpicious a Character, that he did not care to truſt him; and never let him know any thing relating to thoſe Affairs, after his coming from *Rome*.

That he does not know any particular Occaſion of *Plunket*'s Journey, beſides that of accompanying him, *Layer*; but believes, that from the time he firſt acquainted *Plunket* with his Intentions to go to *Venice*, and from thence to *Rome*, (which was ſeveral Months before they ſat forward) that he, *Plunket*, to magnify his Services to the Pretender and his Adherents, might write Letters to General *Dillon*, and others of them, that he was going to *Rome* with a Friend, and that his and his Friend's Journey would be of great Conſequence to the Pretender's Affairs; and he, *Layer*, believes that *Plunket* wrote a Letter to *Paris* to *Dillon*, previous to their ſetting out, to acquaint *Dillon* of their Journey: That he bore *Plunket*'s Expences, as being of Uſe to him on account of the Languages; that he underſtood that *Plunket* ſtay'd for him, and not he for *Plunket*.

That *Plunket* has told him, he often received Letters from *Dillon*; that he, *Layer*, ſaw a Letter at *Antwerp*, which *Plunket* received there from *Dillon*.

Then the Fifth Queſtion was read to him in the following Words:

Did *Plunket* advertiſe you of any Letters, Meſſages or Inſtructions, that he received from any Perſons at Home for the Pretender or his Agents? Did *Plunket* give previous Notice to any Perſon Abroad, of his and your intended Journey; or did he receive any Inſtructions from Abroad, whom he and you ſhould apply to at *Rome*, upon your Arrival there, to introduce you to the Pretender? Did you and *Plunket* paſs through *Antwerp*, in your Way to *Italy*? Did you ever hear of any Perſon that goes by the Name of *Dixwell*?

To the Fifth Queſtion he anſwers, That *Plunket* did not advertiſe him of any Letters, Meſſages, or Inſtructions, that he carry'd for the Pretender, or his Agents.

That he believes *Plunket* wrote to General *Dillon* of their intended Journey; and received Inſtructions from *Dillon* to apply to *Francis Kennedy*, to introduce them to the Pretender; who, he ſays, is denoted by the Name of *Joſeph* in *Dillon*'s ſaid Letter. That he and *Plunket* did paſs through *Antwerp*, in their Way to *Italy*; and that he believes General *Dillon* goes by the Names of *Digby* and *Dixwell*.

Being ſhewn the Letter, ſign'd *Dixwell*, taken amongſt *Plunket*'s Papers; he ſays, that is the very Letter ſhewn him by *Plunket* at *Antwerp*, and affirm'd by *Plunket* to be from General *Dillon*.

Then the Sixth Queſtion was read to him in the following Words:

Do you know, or did you hear, that *Plunket* was in Conference with the Pretender, or with any of his chief Agents during your Stay at *Rome*?

To the Sixth Queſtion he anſwers, That he believes, *Plunket* had two private Audiences of the Pretender, and frequently converſed with *Francis Kennedy*, Secretary to the Pretender, and with other Agents of the Pretender, during his and *Layer*'s Stay at *Rome*.

Then the Seventh Queſtion was read to him in the following Words;

Were you or *Plunket* at your Return from *Rome*, charged with any Letters, Meſſages, Credentials or Commiſſions for any Perſon at Home, or in your Way Home; by what Perſons, and to whom? Did you or he call at *Paris*, or any other Place on the Road for Inſtructions, relating to the carrying on the Conſpiracy? What were they, and from whom?

To the Seventh Queſtion he anſwers in the Negative; ſays, he brought no Paper from *Rome*, excepting the Cypher given him by Sir *William Ellis*, found among his Papers at Mrs *Maſon*'s.

Then

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Then the Eighth Queſtion was read to him in the following Words:

Did *Plunket* ever explain to you who were meant by *Burford* and the Club? Was he out of Town for any Time this laſt Summer, and Where? Did he upon his going out of Town, leave any Inſtructions with you to ſupply his Place in carrying on Buſineſs with any Club, or in managing any Correſpondencies? Of what Nature were they, and with whom?

To the Eighth Queſtion he anſwers, That the Names of ſeveral Perſons whom he had Occaſion to mention in his Letter to Sir *William Ellis*, not being inſerted in the Cypher he had from *Ellis*, he applied to *Plunket* for fictitious Names to denote thoſe Perſons by; and that *Plunket* gave him the Names following, as contained in a Piece of Paper, in his, *Layer*'s own Hand-writing, taken at Mrs. *Maſon*'s: *viz.*

Digby, for General *Dillon*.
Burford, for Lord *Orrery*.
Steel, for the Regent.
Waggs, for Whigs.
Tanners, for Tories.
Rogers, for him, *Plunket*.

That *Plunket* has explained to him, *Burford*'s *Club*, to be an Appellation made uſe of by the Pretender's Agents, to denote a Club of Tory Lords and others; of which Club, (as *Plunket* informed him) Lord *Orrery* is Chairman. That the others (as *Plunket* has told him) are

Lord *Strafford*,	Lord *Bingly*,
Sir *Henry Goring*,	Mr. *Dawkins*,
Lord *Cowper*,	Lord *Craven*,
Mr. *Hutcheſon*,	Mr. *Shippen*,
Biſhop of *Rocheſter*,	Lord *Scarſdale*,
Sir *Conſtantine Phipps*,	Lord *Bathurſt*,
General *Webb*,	Lord *Gower*,

and ſeveral others, whom *Layer*, cannot at preſent recollect. That *Plunket* told him, this Club met Monthly; he thinks, at one another's Houſes.

He ſays, That *Plunket* was not out of Town laſt Summer, above Three or Four Days at a Time, that he, *Layer* knows of, and went then to *Richmond*, as he has been informed. That *Plunket* never left any Inſtructions with him at his going out of Town, to ſupply his Place in carrying on Buſineſs with any Club, or in managing Correſpondencies of any Kind.

He admits, That he went often to Lord *Orrery*'s to enquire, What was intended to be done in Favour of the Pretender. He ſays, That *Swartfegar*, Lord *Orrery*'s Secretary, came to him once, and told him, Lord *Orrery* had left a Note in Writing, that if he, *Layer*, came to Town, he ſhould come down to Lord *Orrery*'s in the Country. He ſays, he never had any Buſineſs with the Lord *Orrery*, in the Way of his Profeſſion, nor any private Concerns with him; and that he apprehended this Meſſage from Lord *Orrery*, by *Swartfeger*, to be ſent with an Intention of inviting him into the Country, to diſcourſe at Leiſure about the Pretender's Affairs; but that he, *Layer*, did not go thither at that Time.

Then the Ninth Queſtion was read to him in the following Words:

By whoſe Hands did you receive the Blank Receipts, ſigned *James R.* taken among the Papers which you delivered to Mrs. *Maſon*? Did you receive no more than the Ten that were taken, or had you delivered any out, and to whom? Do you know of any Sums of Money, raiſed by ſuch Receipts, or otherwiſe, for carrying on the Conſpiracy, and by whom?

To the Ninth Queſtion he anſwers, That he received the Receipts, Signed *James R.* encloſed under Cover, from Sir *William Ellis*, by the Poſt at ſeveral Times. That he received the Ten which were taken at Mrs. *Maſon*'s, and no more; that he never delivered any of them out, nor does he know of any Sums of Money, raiſed by Virtue of ſuch Receipts, or otherwiſe, for the Pretender's Service.

Then the Tenth Queſtion was read to him in the following Words:

Did *Plunket* write the Letter directed for you at *Ayleſham* in *Norfolk*, dated *Novemb.* 8. 1720. and ſigned with his Name? Who is meant by *his Friend*, in the firſt Paragraph of that Letter, and what is to be underſtood by his Friend's *Law-Suit*? What is meant by your *Friend's Buſineſs looking with a better Aſpect than ever*, and the Words that follow to the End of the Third Para-

To the Tenth Queſtion he ſays, That he believes, the Letter mentioned in the Queſtion (which Letter was ſhewn him by the Committee) to be *Plunket*'s Hand-writing, and that he did receive it in *Norfolk* from *Plunket*.

That by *Plunket*'s *Friend* in the firſt Paragraph, is meant as he believes, and underſtood it, General *Dillon*.

That by our Friend's *Law-Suit*, is meant as he believes, the Pretender's Cauſe.

Paragraph of the ſaid Letter? Who is meant by *my Lord* in the Fourth Paragraph? What is meant by *Henry Goring's being gone off*, in the Fifth Paragraph?

That by the Words, *Our Friend's Buſineſs looks with a better Aſpect than ever*, and the reſt to the End of the Paragraph, is meant the Pretender's Cauſe looking more favourably than ever.

That by *my Lord* in the Fourth Paragraph, is meant Lord *Yarmouth*; and that what is ſaid of his *looking uppiſh*, relates only to Projects and Bubbles then on Foot, [illegible] Lord *Yarmouth* was concerned with *Plunket*; but the reſt of the Letter relates to the Pretender's Affairs.

That by *Henry Goring*, in the Fifth Paragraph, is meant, as he believes, Sir *Henry Goring*, whom *Plunket* has mentioned to him, as one of Lord *Orrery*'s Club. What is meant by *Henry Goring*'s being *gone off*, he, *Layer*, cannot at preſent recollect.

Then the Eleventh Queſtion was read to him in the following Words:

Did *Plunket* at any Time acquaint you with his being made privy to a Deſign of an Aſſaſſination, or ſeizing the Perſon of the King, or with his being himſelf to take Part in any ſuch Attempt? Did you know or hear of ſuch a Deſign or Propoſal? By whom was it adviſed? By whom to have been executed, in what Manner, and on whom?

To all Parts of the Eleventh Queſtion, he anſwered in the Negative.

Being put in mind by the Committee, that the ſeizing the Perſons of the King, Prince, and ſome great Men at their Houſes, is a Part of his own Scheme; he ſays, that he carried *Lynch* to Lord *Cadogan*'s, going thither on ſome Buſineſs relating to the Purchaſe of an Eſtate; that while they were there waiting for Lord *Cadogan*, in a Room next the Garden, *Lynch* viewed the Garden, and Houſe, and ſaid to him, I can eaſily ſeize you this General: But that he had no previous Diſcourſe of this Kind, when he took *Lynch* with him. That the Propoſal aroſe from *Lynch*, and that he, *Layer*, was mad enough to make this Part of his Scheme.

Then the Twelfth Queſtion was read to him in the following Words:

From whom, and at what Time, did you receive the Cypher taken among the Papers delivered by you to Mrs. *Maſon*? Have you ever made Uſe of any other Cypher? Or do you know of any other Cyphers made Uſe of by other Perſons? And can you inform the Committee where ſuch Cyphers may be found?

To the Twelfth Queſtion he anſwers, that he had the Cypher mentioned in the Queſtion, from Sir *William Ellis*, while he was at *Rome*.

That he had the Names found in his own Hand-writing, among the Papers taken at Mrs. *Maſon's*, viz.

Digby for *Dillon*,
Burford for Lord *Orrery*, &c.

from *John Plunket*. That he knows of no other Cyphers.

Then the Thirteenth Queſtion was read to him in the following Words:

Do you know of any fictitious Names made Uſe of by any Perſons at any Time, for carrying on the Conſpiracy?

To the Thirteenth Queſtion he anſwers; that he knows of no fictitious Names, but thoſe laſt mentioned, which he had from *Plunket*, and that of *Joſeph* for the Pretender, as mentioned before; and thoſe contained in the Cypher, he had from *Ellis*.

Then the Fourteenth Queſtion was read to him in the following Words:

Did you ever hear, and from whom, that a Day was fixed for beginning an Inſurrection in *London*, before the Encampment? Or do you know any Particulars relating to the then intended Execution of the Deſign?

To the Fourteenth Queſtion he anſwers; That he remembers, in diſcourſing with Lord *Orrery* before the Encampment, Lord *Orrery* ſaid, he heard that Lord *North and Grey*, Sir *Henry Goring*, and (as he, *Layer*, thinks) Lord *Strafford*, were going to do a raſh Thing, in favour of the Pretender. That Lord *Orrery* called it raſh, becauſe unconcerted, and not ſupported by Foreign Forces. That Lord *Orrery* ſaid, without Foreign Forces nothing could be done: They muſt be more than Madmen, to think to do any Thing to Effect, in favour of the Pretender, without Foreign Forces.

Then the Fifteenth Queſtion was read to him in the following Words:

Were any Arms lodged for the Uſe of the Conſpirators? At what Places? By whoſe Appointment? and at whoſe Expence?

To the Fifteenth Queſtion he anſwers in the Negative; Says, he ſhould have writ in his Scheme, "*Arms that are to be lodged, not that are lodged in* Weſtminſter. Says, he ſaw *Green* the Gunſmith at Lord *North's*

in

pence? Before you drew up your Scheme? Or at any Time ſince? And can you inform the Committee, where ſuch Arms were at any Time, or may be now concealed?

in *Queen-Street*, after Dinner: That he ſaid, *Green* makes Arms for the *African* Company, and other Publick Companies. That Lord *North* ſaid to the Perſons at Table with him, Here's an honeſt Tradeſman, the beſt Gunſmith in *England*, will you give him leave to come in. That he came in, and ſat down with them. That Captain *Bonyn*, as he, *Layer* remembers, ſaid to *Green*, What Quantity of Arms may you now have by you? that *Green* ſaid, I know where *Five Thouſand*, or *Seven Thouſand* Arms may be had. I can furniſh you, Captain, with that Quantity of Arms at an Hour's Warning. That there was much Company by at that Time.

Then the Sixteenth Queſtion was read to him in the following Words:

Who employed *George Wilſon* or you to prepare or engage Soldiers for the intended Inſurrection, and by whom were you or he ſupplied with Money?

To the Sixteenth Queſtion he anſwers, That he employed *George Wilſon* and Dr. *Murphey* to get him Liſts, and to enquire into the Characters of Officers and Soldiers; but gave no account of thoſe Liſts to any body, was not employed by any body, nor ſupplied with Money for engaging Soldiers.

Then, the Seventeenth Queſtion was read to him in the following Words:

From whom, and on what Occaſion did you receive the ſeveral Liſts of Officers, Soldiers and others, found among your Papers, at Mrs *Maſons?*

The Committee expect you ſhould explain the particular Marks you have ſet againſt their ſeveral Names, and what Reaſons you had for doing ſo.

To the Seventeenth Queſtion he anſwers as follows:

Being ſhewn a Liſt of Names, marked N°. 7, in the ſmaller Bundle of Papers taken at Mrs. *Maſon's*; he ſays, It is his own Hand-writing; that he received thoſe Names from *Wilſon*, who told him, that the Perſons therein mentioned, were well inclined to the late Duke of *Ormond*; and that he, *Wilſon*, believed, if the Duke of *Ormond* were to come over, and Lord *Cadogan* were ſhot, thoſe Soldiers, and many others in the ſeveral Liſts given him by *Wilſon*, would readily join *Ormond*, in Favour of the Pretender. That *Wilſon* made moſt of the Marks againſt the Names, to explain which Man might be confided in, and which not.

Being ſhewn the Liſts of Names, (N°. 15. of the larger Bundle of Papers taken at *Maſon's*) he ſays, it is partly in *Lynch's* Hand-writing, and partly in his own; that the Figures ſet over againſt their Names, expreſs the Number of armed Men that were to be furniſhed for the Service of the Pretender, by thoſe Perſons againſt whoſe Names the Figures are ſet.

Being examined on the Names in that Liſt, which are his own Hand-writing; he ſays, he does not know *Roath* or *Roach* there mentioned; but that *Murphey* told him, he was one who had a great Intereſt in *Staffordſhire*, and was able to raiſe 1000 Men.

That *Tasborough*, he apprehends to be Dr. *Tasborough*, of the Family of *Flixen*, near *Beccles*, an Acquaintance of *Murphey's*.

That *Vernon* is ſome Officer, a particular Acquaintance of *Murphey's*.

That *Thomas* is a Captain in the Army, *Murphey's* particular Friend.

That *Taylor* is a Serjeant in ſome Regiment of the Guards, as *Murphey* told him.

The Name of *Briquet* being in this Liſt, with the Figure 30. againſt it; and another Liſt of 27 Perſons being found among his Papers, (N°. 14. larger Bundle) endorſed with *Layer's* own Hand, *Briquet's Liſt*; as likewiſe another Liſt of 28 Names, (N°. 18.) endorſed, *Lord Yarmouth's Liſt*; he ſays, that *Briquet* is an eminent Tobaconiſt in the City; that his Liſt and Lord *Yarmouth's*, were only Names for a Jury relating to a Relation's Cauſe; that he, *Layer*, intended to ſhew theſe Liſts to the Lord *Orrery*, and Lord *North*, as containing an Account of Men to be raiſed for the Pretender's Service, in order to magnify the Numbers of the Pretender's Friends.

Being ſhewn the Paper, N°. 11. at the Bottom of which is writ, *Enquire of the Lord North and Grey*; he ſays, it is a Memorandum for enquiring of that Lord, whether he knew *Cornet Reding* (mentioned in that Paper) in the Service abroad.

Then the Eighteenth Queſtion was read to him in the following Words:

Did you draw your Scheme from Inſtructions, or Aſſiſtances given you by any other Perſons, and by whom? Or from Minutes of any Reſolutions taken at a Conſultation

To the Eighteenth Queſtion he anſwers, That he drew his Scheme wholly himſelf, without Inſtructions or Aſſiſtances from any one, on Liſts and Informations received from Dr. *Murphey*, *George Wilſon*, and Serjeant *White*: That he ſaw no Reſolutions

taken

tation, or merely from your own Motion? Did you communicate it, when drawn, to any other Perſon beſides thoſe mention'd in your Examination?

taken at any Conſultation, and that he communicated his Scheme to no Body, ſave only as before: That he communicated ſome Heads of it to Lord *North* and *Grey*; but he ſhewed it to no Body after it was drawn up in the Form left with Mrs. *Maſon*.

Then the Nineteenth Queſtion was read to him in the following Words:

When you went out of Town to *Epping*, What was the Occaſion of your taking away from Mrs. *Maſon*, the Papers you had lodged there? Were they all returned to Mrs. *Maſon*? Or did you take any out? What were they, and for what Uſe did you take them?

To the Nineteenth Queſtion he anſwers; That when he went to *Epping*, he took out of the Bundle which he received back from Mrs. *Maſon*, only a Memorandum Paper, containing a Tranſcript out of the Prince of *Orange*'s Declaration, and ſome other Memorandums.

He adds, That he was to have gone to Lord *North*'s at *Epping*, to Dinner, the Day that he was taken up; and that he ſent his Servant to Lord *North*'s, to let him know he was arreſted for High-Treaſon. That he did this, on Account of previous Diſcourſes he had had with Lord *North*, (ſince his Lordſhip being in Danger of being taken up, that he, Lord *North*, might provide for his own Security; and likewiſe that he might not be ſurprized at his (*Layer*'s) not coming to Dinner according to Appointment.

BB.

PAPERS

RELATING TO

An Intended INSURRECTION.

B B.

Liſt of Papers marked B B.

1. CErtificate relating to the ſaid Papers. Page 1
2. Paper of Reſolutions. *ibid.*
3. Paper beginning *Sheridon*, &c. *ibid.*
4. Paper beginning *London* & *Diviſions*, &c. p. 2

BB. 1.

CERTIFICATE.

WE do hereby certify, that the Paper of Reſolutions and two others in the ſame Hand, which we have ſeverally marked with our Names, were delivered to us by one of His Majeſty's Miniſters in the Months of *July* and *Auguſt* 1722, who aſſured us that a Perſon whom he had reaſon to believe to be deeply engaged in the preſent Conſpiracy, came to him about *July* laſt, and told him, that having formerly received ſome Favours from him he thought himſelf under an Obligation to advertiſe him of a Deſign concerted for ſeizing his Perſon; that this drew on a Converſation about the Conſpiracy in general, of which that Perſon gave him from time to time the Accounts contained in thoſe Papers; that this Perſon brought him a foul Copy of the Paper of Reſolutions for digging up the Arms immediately, *&c.* which he affirmed he had copied by Stealth out of a Nobleman's Scrutore, whom he refus'd to name; That the ſaid foul Copy not being very legible, the ſaid Perſon wrote out the fair Copy, N° 2. with his own Hand in his Preſence, that he did likewiſe at other times write in his Preſence the Papers Numbered 3 and 4, and explained to him *Ld. N.* in the Papers N° 2 and 3 to mean *Lord North and Grey*; The Letter G. in the Paper N° 4. to mean *Gentlemen*; and the Numbers in that Paper to mean the Numbers of armed Men that were to be raiſed for an Inſurrection in the ſeveral Counties and Places againſt which they are placed; but could not explain to him the Letters *Diſ: C. W. M.* in Paper N° 2.

White-hall, January 16th, 172$\frac{2}{3}$.

Townſhend.
Carteret.

BB 2.

R. THAT the Arms be dug up immediately, and diſperſed in ſmall Parcels; begin in *Southwark, White-Chappel, Wapping, Holborn* and *Smithfield*; march into City; poſſeſs the Gates; againſt the Horſes, Barricades in the narrow Streets, eſpecially at both Ends of *Fleet-Bridge, Shoe-lane, Fetter-lane*, and *Chancery-lane*; poſſeſs St. *Clement's* Church-yard, by a Party from *Holborn*; a ſtrong Barricade in the narrow Part of that Street; line the two firſt Stories; Bricks, Stones, *&c.* may be uſeful in the upper Rooms, and may be thrown by Women and others unfit to bear Arms. Lighters with Ammunition under Coals lie at *Black-Friers*, and *Milford-lane*. No Dependance or Aſſiſtance from *Weſtminſter* and thoſe Parts, except ſome few by Water, the Communication being cut off. Meſſage to the Lord Mayor by three Lords. Proclamation made to oblige all who ſhall not come in, to bring in their Muſquets and Militia Arms. Declaration ready printed to be diſperſed among the People. Twenty three Officers of the Guards to be depended upon, a great many others well affected, eſpecially the common Centinels. Day reſolved on *April* 30th. *R.* That forty determined Perſons be immediately pitched upon, armed with Swords and Piſtols to execute all Orders; and that for the Subſiſtance of the ſaid forty Gentlemen, Money be advanced out of the Fund, at the Rate of ſeven Shillings *per Diem* for Man and Horſe.

Commander in Chief Lord *N.* Time ſeven in the Morning.

Diſ: *C. W. M.*

BB. 3.

SKeridon, *Windham, Hamilton, Sh.* Capt. in *Dillon* and in the Marines in *France*; *Windham* in *Rothe, Hamilton Parſon*, and Secretary to *Ormond*, all three gone to the *Weſt*, either at the *Bath* or *Briſtol*, Lord *N.* near the Town being Commander in Chief of the

2

B B. 3

the intended Inſurrection in *London*. *S.W. Skeridon*, *Windham* and *Hamilton* came laſt Week from *France* and gone to the *Weſt*.

The Principal Perſons engaged in the Deſign meet at the *Bath* and *Briſtol*, upon notice retire to reſpective Homes.

B B. 4.

London 8 Diviſions, *Weſtminſter* excepted, 3000 each: *Cornwal* 17 G. 6000. *Devon.* 13, 4000. *Somerſetſhire*, 3000. *Briſtol*, *Gloc.* and *South-Wales* 6000. 15 G. *Shropſhire*, *Staffordſhire*, *Cheſhire* and *Lancaſhire* 8000. 19 Gentl.

C.

PAPERS

RELATING TO

JOHN PLUNKET.

A

List of Papers relating to Plunket.

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3. 19 *March*, 1714. ibid.
4. 6 *April*, 1714. ibid.
5. 11 *May*, 1714. ibid.
6. 18 *May*, 1714. p. 4.
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8. 22 *June*, 1714 ibid.
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37. Letter from Mrs. *Layer* to her Husband. 10 *Aug.* 1721. ibid.
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42. Extract of Serjeant *Plunket*'s Deposition. 21 *Sept.* 1722. p. 17.
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44. Further Examin. of Serj. *Plunket*. 7 *Oct.* 1722. ibid.
45. Extracts of Minutes of the Examinations of Mr. *Layer*, before a Committee of Council. 21 *Sept.* 10 *Oct.* 1722 p. 18.
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55. Copy of the same taken at the Post-Office. ibid.
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61. 5 *July*, 1722. p. 29.
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69. Pretender's Letter to *John Plunket*. ibid.
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72. Deposition of Mrs. *Harcourt*. 18. p. 36.
73. Exam. of *John Plunket*. 25 *Jan.* 172 p. 37.

C. 1.

From the Duke of Berwick *to* Plunket. *Directed for Mr.* Plunket.

Fitz-James, Nov. 8. 1713.

I Have received yours of the 31ſt of *October*, for which I thank you. I reckon to quit this Place towards the Middle of next Week, the Weather growing now too bad for a Country Life. I hope I ſhall ſee you at *Verſailles* or at *Paris*; and belive me moſt entirely, *Yours*,

For Mr. Plunket. *Berwick.*

C. 2.

Feb. 16, 1714.

Duke of Berwick *to* Plunket. *Directed for Mr.* Plunket *at* Paris.

I Have received three Letters of yours, which I had not Time to anſwer, by Reaſon of the Queen's Illneſs; but ſhe is, thank God, much better, and we hope quite out of Danger. I will reflect on what you write, and ſhall give the King an Account of it, that proper Meaſures may be taken ſuitable to the preſent Circumſtances of Affairs: When you have any thing from *England*, you will oblige me to continue giving Account thereof, and believe me moſt ſincerely, Sir,

Your moſt obedient humble Servant,
Berwick.

C. 3.

March 19, 1714.

Duke of Berwick *to* Plunket. *Directed for Mr.* Plunket. Paris.

YOURS of no Date I received Yeſterday, for which I thank you: I am glad to find Matters in *England* in ſo good a Way, and I hope, at leaſt, Means will be found to ſettle all on a good Bottom. What you propoſe about Money, is a difficult Buſineſs, both as to the Specie, which is very rare, as alſo to the Perſons who ſhould be employed in the Diſtribution thereof.

I believe I ſhall part for *Spain* next Week, and reckon to be back in two or three Months. I ſhall ſee you at *Verſailles* before that, and am, with Sincerity, *Your's.*

C. 4.

April 6, 1714.

Duke of Berwick *to* Plunket. *Directed for Mr.* Plunket.

I Have received Yeſterday your's with a Cypher; what Letters you write to me, addreſs them to Mr. *Farely*, and let me know when you come to *London* which way I ſhall write to you. I wiſh you a good Journey. My Compliments to Lord *Fing*, and Mr. *Nerter*. *Your's entirely.*

C. 5.

May 11, 1714.

Duke of Berwick *to* Plunket. *Directed to Mr.* Grimſton.

YOURS of the 12th of *April*, O. S. I have received, for which I thank you: I find at *Milton's* Houſe there has been great Things ſaid and done in Behalf of Mr. *Harriſon*; if this latter goes thither, I fear much for Mr. *Wells*; nor do I ſee how M. *Nelſon* will manage the Affair, which ſeems deſperate enough, for Mr. *Martin* unleſs ſpeedy Meaſures be taken to ſecure him the Reverſion of the Eſtate. I find the Manager is fallen off from the plain Dealers but what your old Friend ſay, for he ſees often Mr. *Nelſon*. All your Friends here are well. The *French* Court is in great Affliction for the Death of the Duke of *Berry*. *I am entirely your's,*

J. Dumont.

C. 6.

C. 6.

May 18*th*, 1714.

Duke of Berwick *to* Plunket. *Directed for Mr.* Grimſtone.

YOUR's of the 17*th* and 30*th April*, O. S. I have receiv'd at the ſame Time. I find Matters in *England* are very noiſy. We ſhall ſoon ſee if *Hanover* will venture to go thither in ſpite of the Queen, and if ſhe in that Caſe will have Friends and Power ſufficient to maintain herſelf in the Throne. But let us come to our own private Concerns. I hope Mr. *Harriſon's* Behaviour towards Mr. *Wels* will be of ſome good to Mr. *Martin*; why may not M. *Nelſon* and his Aſſociates make uſe of this to engage Mr. *Milton* and Mr. *Cottington* to deſire Mr. *Wels* to ſettle the Reverſion of his Eſtate on ſome other Perſon; in which Caſe, my Relation would have good Hopes.

Pray continue giving me what Account you can learn of our Concerns, and believe me moſt ſincerely, *Yours*

J. Dumont.

C. 7.

9. *June* 17

Duke of Berwick *to* Plunket. *Directed to Mr.* Grimſtone, *at* Daniel Arthur's, *Banker*, London.
And in another Hand, Mr. John Plunket.

THIS is only to let you know, that I am ordered away for *Spain*. I ſhall part the 20*th* Inſtant: But wherever I am, you may be ſure I am ready to render my Friends and Relations what Service lies in my Power: You may continue writing to me by the Way of M. *Farely*, who will forward your Letters. My Service to M. *Nett*, and believe moſt ſincerely, Sir, *Yours entirely*.

C. 8.

June 22, 1714.

Duke of Berwick *to* Plunket. *Directed for Mr.* J. Grimſtone.

YOUR Two Letters of the 27*th May*, and 3*d* Inſtant, O. S. I have receiv'd, for which I thank you. I would have anſwer'd the Firſt e're now but I have had Two Fits of an Ague, which have pulled me down: However, my Strength being now come again, I part To-morrow for *Spain*, where I will make as quick Diſpatch as I can, and return hither, where I ſhall be glad to remain, that I may not be out of the Way whenever Occaſion offers.

Mythinks your Miniſters are at great Variance; it were to be wiſhed the Treas: went Hand in Hand with them all, that the *Whigs* might be routed, and honeſt Men triumph. Pray let me hear from you as regularly as ever; Mr. *Farely* will take Care to forward the Letters, *Yours moſt entirely*.

C. 9.

December 22, 1714.

Duke of Berwick *to* Plunket. *The Direction torn off.*

I Have received ſeveral of yours, which I could not Anſwer before, having for theſe Six Months paſt been in Foreign Countries, overwhelmed with Affairs and very Sick; but now, thank God, I am peaceable at Home, and in good Health; ſo I am in a Condition to anſwer my Friends, and render them what little Service lies in my Way: You may eaſily believe my Brother's Concern is the chiefeſt I have: Pray be ſo kind as to let me know how ſtands M. *Martin's* Affairs, for I have a great Kindneſs for that Gentleman; as alſo, pray let me know what Publick News you have, for though I am not a great Politician; yet I am curious. I am, Sir,
Yours moſt entirely.

C. 10.

C. 10.

Jan. 28. 17[illegible].

Duke of Berwick *to* Plunket. *Directed for Mr.* Grimſtone, *at* {*Mr.* Daniel Arthur's, *Banker*, London.
And in another Hand, Mr. John Plunket.

YOURS of the *6th* Inſtant, *O. S.* I have receiv'd, for which I thank you; when my Friend the Landlord's Tenant goes to your Parts, you may ſpeak to him, and give him what Hints you will think propereſt for his Maſter's and Mr. *Martin*'s Good. Mr. *Brooks* was formerly his Friend, and in all likelihood will make very much of him.

As Matters ſtand, my only Fear is, leſt Mr. *Harriſon* ſhould come over to the plain Daylers; for in that Caſe, Mr. *Martin* would be at a Loſs.

Pray let me know what publick News you have, by Reaſon that daily People are curious; and tho' I care not my ſelf for any News, and only mind my Trade, yet one muſt be able to ſay ſomething to thoſe that will write or wrong talk Politicks.

I am moſt entirely Yours.

C. 11.

Feb. 10, 1715.

Duke of Berwick *to* Plunket. *Directed for Mr.* Grimſtone, *at Mr.* Daniel Arthur's, *Banker*, London.
And in another Hand, Mr. John Plunket.

YOURS of the 17th of *January*, *O. S.* I have received, for which I thank you. I find *Brooks* governs entirely *Harriſon*, but mythinks he does not give him good Advice, for he neither courts entirely the Trickſters, nor the plain Daylors. Theſe latter are undone if they do not apply quick to *Martin*. I am glad you think Matters may take a good Turn, but I long to hear ſomething more poſitive than future Proſpects. Pray let me know your Thoughts, and believe me moſt ſincerely,

Yours.

C. 12.

March 1, 1715.

Duke of Berwick *to* Plunket. *Direction torn off.*

YOURS of the 10th of *February*, *O. S.* I have received, for which I thank you; I am glad to find you think Mr. *Martin*'s Concerns have a fair Proſpect, ; but yet if ſome Friends do not undertake to begin his Law-ſuit, he will never recover his Eſtate.

I am ſorry to hear of the Accident befallen to M. *Pents*. *Brooks* is now a great Man with *Harriſon*, but how long that will laſt, God knows. The Trickſters will in all likelihood get the better at Mr. *Cottington's*, and then 'tis to be feared the plain Daylours will have it no more in their Power to do any thing.

We long to hear how the Elections goes; and after that we ſhall be curious to ſee the Proceedings of the Parliament. All your Friends here are well, and, I am moſt entirely, *Yours*.

C. 13.

March 28, 1715.

Duke of Berwick *to* Plunket. *Directed to Mr.* Grimſtone, *at Mr.* Arthur's, Banker, London.
And in another Hand, To Mr. Plunket.

I Have not had this long while any Letter from you; I was mightily ſurprized to hear from ſome, that you had inſinuated to Mr. *Martin*'s Friends, that they ſhould join with *Nelſon*, and even that you pretended to produce a Letter from me to that Purpoſe; you know I never writ to you of any ſuch Thing, and I deſire you will never make me ſpeak; it muſt even be with great Precaution whenever you ſhow my Letters.

We long to know how the Parliament will proceed.

Yours entirely.

C. 14.

July 16, 1720.

Duke of Berwick *to* Plunket. *The Direction torn off.*

YOURS of the 20th *June*, *O. S.* I have received, for which I thank you; I ſhall be very glad you will continue writing to me as formerly, but I cannot at preſent ſend you what you deſire; but you may ſend me one by the Bearer when he comes back to this Country: In the mean time, believe me moſt ſincerely, Sir,

Your moſt humble Servant.

C. 15.

Robert Jones, *i. e. Sir* William Ellis *to* Plunket. *The Direction and Date torn off.*

I Received, Dear Sir, with a great deal of Pleaſure, the Letter you favoured and honoured me with of 10th of *July*, and ſhall be glad to hear from you as often as your Affairs will permit, and particularly, when you have any thing of Moment to communicate.

I delivered into Mr. *Kemp's* own Hands, the Letter you incloſed for him; he is, God be praiſed, in perfect good Health, and bears his great Age very well; and I aſſure you, has a due Value and Eſteem for you; altho' his Memory is reaſonably good, yet he cannot recollect, who that Merchant is, who demands Payment for the Barrels of Fiſh you mention; you ſay he is Partner of Mr. *Sutler's*, but the Name was ſo written, as we could not make it out; you are therefore deſired to explain it ſo in your next, as that Mr. *Kemp* may know who he is, and it is thought more adviſable, that he ſhould write, and expreſs by you or otherways his Pretenſions, rather than take ſo long a Journey, which will be chargeable and troubleſome to him.

Not having your Addreſs at preſent, which I ſhould be glad to have, I trouble the Lady with this who conveyed yours to me.

I wiſh you, dear Sir, all Health and Happineſs, and am moſt ſincerely,

Dear Sir,

Your moſt Humble, and moſt Obedient Servant,

Robert Jones.

C. 16.

May 20, 1713.

Robert Jones, *i. e. Sir* William Ellis *to Plunket.* *The Direction tore off.*

Dear Sir,

I Have the Favour of Five of yours to acknowledge; *viz.* of the *7th*, 10*th*, 13*th*, 20*th*, and 24*th* of *April*. We are much obliged to you for the great Pains you take in writing ſo frequently, and for the exact and particular Accounts you give, which do not only amuſe us, as you ſay they will, but alſo do very much and uſefully inſtruct us in many Things worth our Notice and Attention, ſince your two lateſt give us Hopes of ſeeing you ſhortly, and you think fit to refer us to much you have to impart when you are here. We likewiſe think it proper to defer mentioning much we might otherwiſe have to ſay to ſeveral Particulars in your ſaid Letters, and which we judge may better be told you by Word of Mouth at Meeting, eſpecially ſince you think to be here ſo ſoon as you ſay. And therefore I ſhall only tell you at preſent, that Mr. *Kennedy* will be very glad to ſee you, when you come to Mr. *Finche's* Houſe; but as to the Perſons you intend to ſee and communicate with at Mr. *Finche's* or at Mr. *Sander's* Houſe, he leaves that entirely to your own Diſcretion, having too good an Opinion of your Prudence and Conduct to think it neceſſary to preſcribe any Rules to you in that Matter. I am moſt entirely,

Dear Sir,

Your moſt Affectionate, and moſt Obedient Humble Servant,

Robert Jones.

C. 17.

Aug. 22, 171[illegible]

Robert Jones, *i. e. Sir* William Ellis *to* Plunket. *The Direction tore off.*

Dear Sir,

I Have had long ſince, the Favour and Kindneſs of yours of the 2d and 21ſt of *June*; but not being able to make you any direct or ſatisfactory Anſwer to the ſeveral Particulars of them, and this Place affording Nothing worth communicating to you, I thought it beſt not to trouble you with an inſignificant Letter; but however, I was aſhamed to forbear longer, leſt you might think my Silence proceeded of Neglect, or Want of a due Value for your Friendſhips; I think you'll not expect much News from ſo remote a Place as I am in, but I lately ſaw a Letter from a good Hand, which ſays, the Pretender having had early Advice of the late Queen's being in a deſperate Condition, took Poſt immediately for *France*, intending, as is ſuppoſed, to make the beſt of his Way to the Sea-Side, and to go over, to ſee whether his Friends would do any Thing for him; but was ſtopped on the Road by a Carrier from the King of *France*, and ordered to retire immediately out of *France*, which he found himſelf forced to do accordingly, and return'd to *Barleduc*. I am with great Affection, and Eſteem, *Dear Sir*,

Your moſt Obliged, and moſt Humble Servant,

Robert Jones.

C. 18.

December 6.

Dom^co M. Cantelmi, *i. e. Sir* William Ellis *to* Plunket. *Directed to Mr.* Rogers.

Dear Sir,

I received the great Favour of yours of the 2d of *October*, not 'till the latter End of *November*; which was occaſioned by my removing to *Ruthen*, where it came to my Hands: I ſhowed it to Mr. *Kennedy*, who had alſo one addreſs'd to Madam *Maurice*, the Receipt whereof he deſired me to acknowledge; and I am to thank you for your Affection and Concern for him and his. It was well that you prevented that *Ambidexter Cor* from doing the Miſchief he deſigned, and that you managed with ſo much Addreſs, as to bring *Hall* and his into a Net. You gave Hopes of ſeeing you, with a Friend you intimated was to come in *September*, or at leaſt to ſet out in the Beginning of that Month; and whom you aſſured of a kind Welcome, as you might very well do; but I have not heard any Thing of him: You give a Reaſon for your own not coming, but ſay no more of that Gentleman in your laſt. I was glad to find by yours to me, that you extricated yourſelf ſo happily out of *Moulin*'s Clutches and Sharpers, and that you made ſo dext'rous Uſe of the Precepts you had with you. That *Sutler* you mentioned in yours to Mr. *Kennedy*, and who, you ſay in yours to me, intends to repreſent ſeveral Matters to the Partners, may do Good perhaps without deſigning it, as it often falls out: I made your Compliments to our Mate, and told him you would write to him if you knew his Addreſs: He gives you his Service, and ſays your writing to me is the ſame Thing.

I ſend by the ſame Way I ſent laſt, thinking you meant I ſhould do; otherwiſe I would have ſent by the old Addreſs, that is, by Mr. *Archibald* the Banker, and ſave the Lady I now ſend by the Trouble and Charge of Poſtage; pray in your next be pleaſed to explain which of the Two Ways you wou'd have me ſend by, and if you think fit without troubling the Widow, you may Addreſs to me as follows, *viz.* Al. Sig^re Dom^co M. *Cantelmi*, and put it under a Cover, directed Al Sig^re Gio *Angelo Belloni*. I am, Dear Sir,

Your moſt Humble, and Obedient Servant,

Dom^co M. Cantelmi.

C. 19.

C. 19.

December 21.

Domco Mr. Cantelmi, *i. e. Sir* William Ellis *to* Plunket. *Directed to Mr.* Daniel Arthur, *Banker, in* London, *To be given to Mrs.* —— Rogers.

In another Hand, Mr. John Plunket.

Dear Sir,

I Had the Favour of yours of the 3d of *November*, and Mr. *Kennedy* had one at the ſame Time, and of ſame Date; which I am to acknowledge, not to trouble you with two Letters. We are obliged to your kind Concern for our little Affairs, and I ſhould be glad to know what Ground you have for hoping, as you ſay, the Wags may be ſo diſpos'd; and how it comes to paſs that the *Geraldins* don't meddle as formerly. I ſhould be alſo glad to know, how what you ſay of *Thomſon* and *Littleton*, can be made practicable. All your Friends in theſe Parts are, God be prais'd, perfectly well, as is alſo Old Mr. *Kemp*. I wiſh you, Sir, a merry *Chriſtmas* and a happy *New-Year*, and am, Dear Sir,

Your moſt Humble, and Obedient Servant,

Domco M. Cantelmi.

You may Direct to me, Al Sigre Domcò M. Cantelmi, *ricommandato al Sigre* Gio Angelo Bellani.

C. 20.

March 19, 1718.

Copy of a Letter from Lady Lithget *to* Plunket. *Directed for Mr.* Arthur Banks *in* Trinity-Lane. *To be given to Mr.* Rogers.

And in another Hand, Mr John Plunket.

I Had yours, Dear Sir, of the 13th of *February*, and one of the 16th *January*, which I would have anſwered ſooner if I could; I ſent your encloſed to my Couzen; ſhe has ordered the Four Pound odd to be paid, and deſires when there is any thing very particular, that you will let her know it, or if you can get any great Lawyer to plead her Cauſe, to ſend her Word, for your two laſt brought her Nothing new; as to the Recommendation you deſire, ſhe cannot, ſhe ſays, give, for many Reaſons; and tho' thoſe Reaſons don't relate to you, yet they are, ſhe ſays, ſuch as hinders her; ſo you muſt endeavour ſome other Way, if you have a Mind to travel with that young Lord; as to my Couzen's Marriage, it is, I aſſure you, falſe; nor is there a Thought of his coming hither; I often told you that there was nothing to be expected from Mr. *Mercy*; and 'tis ſtrange that you will not believe me; I am heartily ſorry you are ſo low, for 'tis impoſſible to help you, our Stock is ſo low, that I fear our Company will break; As to the Key you mention, there is, they ſay, no Need, your laſt was underſtood by Mr. *Oie*. I am but juſt able to walk about my Chamber by the Help of a Stick, but hope the good Weather will recover me; my Service to *Stone* and his Wife; my Son ſends you his moſt humble Service, he ſtudies well, and is very near, if not quite as tall as you; I am ſorry you have a Loſs in my Lord *Fingall*; pray let me know in your next how he has left his Concerns, and whether he has left Truſtees for his Children. I can ſay no more at preſent, only that I am,

Dear Sir,

Your moſt Affectionate Humble Servant,

A. L.

C. 21.

C. 21.

Feb. 22. 171[illegible].

Tiverton *to* Plunket. *Directed to Mr.* Rogers.

SIR,

I Sent you my Reaſons in my laſt that I was ſo long anſwering your mit.

I have your Second of the 17th, with the encloſed, to Mr. *Grimprell*; who has given me your Cypher, and orders me to anſwer your Letter. He is very willing his Suit at Law ſhould be brought to a Hearing this Term, deſiring nothing more than a quick and happy Concluſion to ſo long a Debate. But he thinks it convenient that Mr. *Bell* ſhould be acquainted with all the neceſſary Paces that may advance the Succeſs of ſo great an Affair, believing his Conſent and Approbation neceſſary to bring the Cauſe to a ſure and happy Concluſion.

Let me have your Addreſs to *London*, and write by the Cypher you ſent Mr. *Grimprell*, I am,

Sir,

Your moſt Humble Servant,

Tiverton.

C. 22.

June 8.

Tiverton *to* Plunket. *Directed to Mr.* Grimſtone, at *Mr.* Daniel Arthur's, Banker, London. *And in another Hand, Mr.* John Plunket.

SIR,

MR. *Tiverton*, has been rambling this Month, which was the Reaſon he did not anſwer Mr. *Grimſtone's*; two Letters of *April* 19 and 22 ſooner; at my coming Home to my uſual abode laſt Night, Mr. *Robert Jones* ſhew'd a Letter of *May* 6th, directed to him from *Rogers*, who ſeems to complain of *Tiverton's* not anſwering his Three Letters; but *Tiverton* aſſures me, he never received but Two, and there was nothing in either of them that required an Anſwer.

What you deſire concerning the Black-Box is of Moment, and deſerves Conſideration; and therefore Mr. *Grimprell* deſires me to tell you, that you ſhould Propoſe it to the little Club, and make his Compliments to them, and uſe your Intereſt with them to make a nice Scrutiny into that Miſterious and Dark Affair, provided they approve of the Project, and think it feaſible to be brought about without much Difficulty; and Mr. *Grimprell* will enter into all Meaſures that wiſe and honeſt Society ſhall think proper for his Service. I am,

SIR,

Your moſt Humble Servant,

Tiverton.

C. 23.

Aug. 21.

Tiverton *to* Plunket. *Directed to Mr.* Grimſtone, *at Mr.* Daniel Arthur's, *Banker*, London.

In another Hand, for Mr. John Plunket.

SIR,

I Have yours of the 22*d* and 26*th*. I have no News to ſend you from theſe Parts, but what is now the great Subject of Diſcourſe of this Town, which is, That the Chevalier de *St. George*, at the Arrival of the News of the Death of his Siſter, parted Poſt from *Bar* the 14th, late at Night, and ſtopt no where till he arrived within Four Leagues of *Paris*, where he met a Courier from the *French* Court, with Orders to ſtop him, and deſire him to go back immediately, for the King could not undertake any thing for his Service, nor ſo much as permit him to paſs through his Territories to embark; upon which, finding no Poſſibility to get aboard a Ship, as he deſigned, in Order to claim his Right, was forced to go back to *Bar*, where he arrived the 20*th* Inſtant: So you may now judge of the ill Situation of that unfortunate Prince's Affairs.

I am, yours.

Tiv.

C. 24.

Sept. 26.

Tiverton *to* Plunket. *Directed to Mr.* Grimſtone, *at Mr.* Daniel Arthur's, *Banker*, London.

And in another Hand, Mr. John Plunket.

SIR,

I Writ to you on the 19*th* Inſtant, in Anſwer to yours of the 9*th* of laſt Month; and ſince I have yours of the 14*th* of laſt Month; they are long on the Road before they come to my Hands, by reaſon they paſs through Mrs. *Grimprell's* Hands, which is the Reaſon you have not Anſwers ſooner. I am glad you ſtill have Hopes of our Cauſe being brought to a Hearing, and that we may probably have the better of our Antagoniſts; I hope you have the Advice and Opinion of ſome able Lawyers to confirm your Judgment, and raiſe your Hopes; a Continuation of your good Advice, and a hearty Reſolution to perſevere in carrying on the Cauſe, is all at preſent that is deſired by,

Your Humble Servant,

Tiv.

C. 25

Nov. 4.

Tiverton *to* Plunket. *Directed to Mr.* Grimſtone, *at Mr.* Daniel Arthur's, *Banker*, London.
And in another Hand, Mr. John Plunket.

SIR,

PRAY let my Friend *Rogers* know I have his of the 11th of laſt Month, and thank him for his Care and Vigilance in ſollicſting Mr. *Grimprell*'s Cauſe, which I hope he will be ſoon rewarded for when he has recovered his Copyhold.

You ſent me but a ſmall Liſt of Things when you went away, which has puzzled me to underſtand yours, but I have got a Copy of yours with Mr. *Evans*, which clears the Point.

If Mr. *Smith* comes this Way, you may be aſſured Mr. *Grimprell* will contrive to ſee him, in order to the better Settlement of our Accounts. There are ſome Hopes, notwithſtanding the Seaſon is advanced, that we may have hot Weather, which Heaven grant, and it may in ſome Meaſure recover your drooping Friend.

I am, yours,

Tiv.

C. 26.

Nov. 17, 1714.

Tiverton *to* Plunket. *Directed to Mr.* Grimſton, *at* Daniel Arthur's, *Banker*, London. *And in another Hand, Mr.* John Plunket.

SIR,

I Have received two lately from Mr. *Rogers*, one of the 18*th*, the other of the 25*th* October, O. S. I am very well ſatisfy'd of *Scogel*'s bad Intentions for Mr. *Grimprell*, but I believe he will not find his Rhetorick will have Force enough to bring *Egleton* into his Meaſures; if *Moleſworth* makes Bankrupt once more, 'twill be wonderful if he does not endeavour to pay thoſe honourable Debts he has ſo long owed, which may give him once more Credit, and re-eſtabliſh him again with Reputation on the *Exchange*. I don't well comprehend what you mean by ſaying, If *Moleſworth* is laid aſide, *Arbuth* — will ſoon follow his Fate, which ſeems a Paradox, for I ſhould think the one would riſe by the other's Fall. *I am, yours.*

Tive.

C. 27.

Dec. 12, 1714.

Copy of a Letter from Tiverton *to* Plunket. *Directed to Mr.* Grimſtone, *at Mr.* Daniel Arthur's, *Banker*, London.
And in another Hand, To John Plunket.

SIR,

PRAY let Mr. *Rogers* know that I have his of the 11*th* of laſt Month, *O. S.* It has been longer a coming to Hand, by reaſon it goes by Mrs. *Grimprell*'s Houſe.

Your Project upon Mr. *Smith* is at an End, for I hear he is gone another Way, and that he is ſafe arrived at Home. If I could perſwade *Knox* and *Egleton* to enter into Meaſures as you propoſe, your Project probably may be brought about; but they are both ſtubborn and willful, and I am afraid will not eaſily be brought to any honourable Compliance which they are not convinced is really their own Intereſt. Pray continue your good Inclinations for my Service, and believe me moſt ſincerely, *Yours,*

Tiv.

C. 28.

C. 28.

Jan. 31, 1715.

Tiverton *to* Plunket. *Directed to Mr.* Grimſtone, *at Mr.* Arthur's, *Banker*, London.

And in another Hand to Mr. Plunket.

SIR,

I Have yours of the 30th of laſt Month, O. S. Your Propoſal to *Knox*'s Agent is reaſonable; but I queſtion much, if he can bring about your Project; he is too tenacious of his Money to lay it out without a demonſtrative Proof of Succeſs. If you cou'd bring it about, it would be of Service to.

Your Friend, and moſt Humble Servant,

Tiv.

C. 29.

Feb. 14, 171⅘.

Tiverton *to* Plunket. *Directed to Mr.* Grimſtone, *at Mr.* Daniel Arthur's *Banker*, *at* London.

And in another Hand, Mr. Plunket.

SIR,

PRAY let my Friend *Rogers* know that I have his of the 20th of laſt Month, O. S. He is ſo able a Lawyer, that I am not able to direct him; but deſire him to go on his own Way, according to the beſt of his Judgment, and I hope in Time to have an agreeable Determination of my troubleſome Law-Suit, which has been ſo long depending. I am, *Yours*,

Tive.

C. 30.

Chaillot Sept. 13.

Lady Middleton *to* Plunket. *Directed*, A Monſieur Monſ. *Plunket*, chez Monſ. le Chevalier *Cantillon*.

SINCE I talk'd with you laſt, I have ſome Scruple that I did not ſpeak ſo freely to you concerning Sir *William* and My Lord, conſidering you are a Perſon that can Manage ſo much, and ſo well for the King's Intereſt; therefore do reſolve, when you come next, to let you know all I have heard as to thoſe Two Perſons. Am,

Your Humble Servant,

K. Middleton.

Lord Middleton *to* Plunket. *Directed to Mr.* Rogers.

October 28.

AN *old* Lady, Sir, ſent me a Letter of yours, which gave me a great deal of Satisfaction, and I accept of your obliging Offer of correſponding with you, as a means profitable to the Factory, the Conſul approves it, and no body ſhall know it, and in order to that, I ſhall ſend you an Account, by which we may underſtand one another, and diſappoint the Curioſity of Interlopers in ſome meaſure, but as you obſerve very well it is not certain, therefore, I am to deſire you to enquire at the *Scotch* College on the *Foſſé St. Victor*, for *l'Abbé Ines*, who is lately come from hence, and ſpeak to him of all our Concerns with the ſame Freedom as if you were here, and he being to return hither in a ſhort Time, you may conſign to him what Papers you judge neceſſary for the Conſul's Peruſal, by whoſe Order I tell you this, who bids me thank you for the good you have done, and doubts not but you will continue to do ſo. My Compliments to this Perſon whoſe Letter you ſent me; you will receive this by the Way you ſent yours, becauſe you have ſent me no Addreſs, which I beg you would ſend me at the Receipt of this, and another to the Place you came from, when you return to it, let there be nothing but cordial Kindneſs betwixt Friends without Ceremony; ſo whilſt you are on this ſide of the Water, you may be pleaſed to direct your Commands to

Your Faithful Humble Servant,

Middleton.

C. 32.

Lady Middleton *to* Plunket.

Directed for Mr. Plunket.

St. Germains, Nov. 15.

YOU will find your Letter to the Queen is ſafely delivered, when Her Majeſty deſires you will talk to the Duke of *Berwick* concerning what Mr. *Newland* writes. The Duke of *Berwick* will be at *Paris* to Morrow Night. *Friday* Morning the Queen thinks will be the beſt time; you will ſee him or hear of him at my Lord *Newcaſtle's*. The Queen is better every Day. I am

Your humble Servant,

K. Middleton

C 33.

Lady Middleton *to* Plunket.

Directed à Monſieur Monſieur *Rogers* à la Croix Blanche Place Dauphine à *Verſailles.*

Jan. 28.

I Safely deliver'd your Letter to Her Majeſty, who chuſes *Wedneſday* to have you come to St. *Germains*. I will have my Footman to wait at the Caſtle Gate for to ſhew you where you are to go, ſince Mr. *Rothe* and my Daughter are with us for ſome Days. Farewel.

K. M.

C 34.

Lady Middleton *to* Plunket.

(*No Direction, and yet does not appear to have been under a Cover.*)

Friday Morning, *Feb.* 19. $17\frac{13}{14}$.

THE Queen being ſtill extream weak, muſt keep to her ſleeping Hour at a reaſonable Time after her Dinner; ſo begs you will be ſo good as to come a little before ſeven to Night; She apprehends it may be inconvenient to you, but her Weakneſs ſhe hopes will make her Excuſe; When you pleaſe, come to the Caſtle, the Duke of *Berwick* goes out to take the Air between three and four. So if you will come to the little Room when he is gone, or at two a Clock, you are Maſter, and I am,

Your Humble Servant,

K. Middleton.

CC 35.

Lady Middleton *to* Plunket. *Directed* à Monſieur *Rogers* au Croix Blanche dans la place Dauphin à Verſailles.

February 20.

THE Queen ſays, Mr. *Rogers* cannot poſſibly converſe with her, but ſhe wou'd have you ſay to my Lord *Middleton*, what you would ſay to herſelf, if you think of coming pray tell my Man what Night you will come. I did write to you and Captain *Cantillon* promiſed me to ſend it you laſt Night, which was writ before I had ſpoke with the Queen. I am

Your humble Servant

K. M.

CC 36.

St. Ger. April 3.

Lady Middleton *to* Plunket. *Directed for Mr.* Plunket.

HER Majeſty ſays if you ſhould go from *Verſailles* to *Paris* this Day, you may come to Morrow Night, or on *Thurſday* Night. I am glad your Eyes are well again.

Your humble Servant,

K. Middleton.

CC 37.

Aug. 10, 1721.

Mrs. Layer's *Letter to her Huſband. Directed to Capt.* Fountain, *to be left at Mr.* John Smith's, *the Sign of the Punch-Bowl on the Bum-Keys in* Rotterdam.

Dear Sir,

I Received yours with pleaſure inexpreſſible, will be ſure to meet you in *Norf.* if not prevented by the Gentleman's Letters, and heartily wiſh you a good Voyage. I am extreamly pleaſed with the Goſſips, and wiſh them well ſettled at St. *James's*. Mr. *Jeffereys* who has got a Bill for 25 *l.* gives his humble Service to you both, and I believe takes it a little ill he has not had a Letter. I cannot tell whether from you or your Companion. Pray let me know what Name the Letters are to be directed to from the Gent. I will wait on Mrs. *Fox* very ſoon, and will bring the things you ordered into *Norf.* *Nanny* has been there this three Weeks, for I cou'd not perſuade her but that ſhe ſhou'd go to *France* without going down firſt, ſo I was obliged to ſend her down for quietneſs ſake; ſhe had Money that her Uncle gave her when down before, to bear her Charges. I've ſent you a Letter I fancy may prevent my going into *Norf.* and deſire you'll ſend me word if I am to go; if the Dutcheſs have had a Letter. Your Bill will come in *Binnel's* Letter this Poſt. If you can ſpare Money for 12 Yards of Edging, I do not care how narrow, ſo very fine. You'll much oblige

Your reſpectful humble

I've one Letter lay at Mr. *Digley's*. *Paris.*
My humble Service to your Companion.

CC 38.

Mr. Layer's *Letter to his Wife.*

London, July 29. 1722.

My Dear,

I Take this Opportunity by Mr. *Jernegan* to congratulate your ſafe arrival at *Paris*, which I heard of by Mr. *Plunket*, who received a Letter from the good Lady *Lithgot* informing him of it, which I ſhould not otherwiſe have known, for I have had no Letter from you, only that you writ me from *Diepe*; but I imagined you conſider'd I might be ſtill in the Country, which I left juſt after our Aſſizes, having particular

ticular Buſineſs here in Town that I believe will detain me here all this Vacation, unleſs I ſhould make a trip to *France* to fetch you home, which I hope my Affairs will permit me to do. In the mean time deſire to hear often from you, and that you'll let me know particularly how you like the Place where you are, and how you have diſpoſed of *Nanny*, &c. to whom pray give my kind Love, and Service to all where due. I am,

My Dear, Your ever Loving Huſband,

Chriſ. Layer.

Direct to me in *Old Southampton Buildings* near *Chancery-Lane, London.*

CC 39.

Auguſt 1. *N. S.*

Mrs. Layer *to her Huſband.*

My Dear,

ON *Wedneſday* laſt I got ſafe to *Paris*, and have a Lodging very near charming Lady *Liſsgoe*, She anſwers the Character Mr. *Plunket* gave her exactly, but that troubleſome Creature Mrs. *Fox* is got into the ſame Houſe with me, that I cannot be ſo often at that good Lady's, as I ſhould be, it has coſt me 20 Guineas before I got to *Paris*. I acquainted Lady *Liſsgoe* with what Money I have, ſhe ſays I muſt have thirty Pounds more returned; every Thing here is three Times as dear as uſually, I muſt pay a Quarter before-hand for *Nanny*. I beg you'd return it as ſoon as poſſible, for I deſign to begin my Journey in three Weeks, and to go from *Diepe* to *London* by Ship, there will be one Mr. *More's* Ship go about that Time, a very civil Man. My humble Service as due,

I am

Nanny gives her Duty to you. *Your Affectionate Wife,*

E. Layer.

CC. 40.

J. Johnſon *alias* George Kelly *to* J. Plunket. *Directed to Mr.* Plunket *at* Will's *Coffee-Houſe. Taken among* Plunket's *Papers.*

Dear Sir, *Thurſday Night.*

I Heartily ask Pardon for not meeting you according to Promiſe, but am unexpectedly called a little Way out of Town by ſeven to Morrow Morning, but will not ſtay long, and ſhould be glad to know what Anſwer you got about the Money from your Friend, and where I may ſee you at my Return.

I am heartily Yours,

J. Johnſon.

CC. 41.

March 22. 1721.

Copy of a foul Draught of a Letter from Plunket *to Mr.* Jackſon.

I look, Sir, on your Law-Suit to be in ſuch a Forwardneſs that a ſpeedy and happy Replication muſt inevitably enſue, the *Wagg* as well as the *Tanners* ſeem convinced, that nothing leſs can redreſs your Ruin, nay, the latter is apprehenſive the former will compliment you with it on your own Terms, in order to engroſs your Favour for the future.

The Precepts my Friend and I gave in lately have contributed much to this Emulation, we have more to give in, and if they improve them as they have the former ones, you will have a good Game on't, 'tis in *Otway* and *Kirkton* to make *Hall* and the *Mates* give you a Cart Blanch.

In caſe they ſhould not go your Lengths, *Allen* will: The Pecks of Oats are moſt of my Country, and founded ſome of 'em on this Matter.

The Partners will come to a Rupture with *Hall*, I believe in a little Time, and will be

be obliged to diſmiſs 'em, and call new ones, as the only means left to retrieve himſelf he is adviſed to it by the Guardians and others, but the Mates have him ſo in their Power, that he can do nothing, they have *Allen* to back whatever they will undertake, he has neither Credit or Mape, nor no Poſſibility of eſtabliſhing the former, nor getting the latter into his Coffers, he does not ſee it as yet; if he did, I am ſure he would ſoon contrive to ſteal away. The *Gerardins* about him darn't tell him on't, for fear of putting him out of Humour, they think by calling a new Partner to retrieve all Loſſes.

'Twere to be wiſhed he did go, he wou'd compound on any Terms, and lay this open to the Purpoſe. All this may be brought about with little Management, had I but *Mape* and a good Back, I cou'd do it.

'Tis true, the Hints the Mates had from me, gave 'em a handle to carry on your Game at his Expences, and to your Advantage, they will not act barefacedly, leſt you, or your Friends ſhould take Advantage of their Diviſions. I ſhall explain myſelf when I ſee, which I hope will be ſoon.

The Gentleman I mentioned to you formerly, is come out of the Country with Inſtructions to wait on you, and tender you their Service, he offers to bear my Expences if I go with him; as I take it that my going will be of more uſe than my ſtaying now, I believe I ſhall accept of his Offer. By the View I have of Matters, the Mates muſt do ſomething to ſettle the Keepers, or they are undone.

If they go on regularly 'twill be Midſummer afore they can finiſh, by that Time we ſhall be back, and have your Inſtructions how to tye them down in caſe they ſhould not comply with their Duty as they ſhould.

I believe I may venture to wiſh you Joy of a happy and ſpeedy Replication, for the *Waggs* as well as *Tanners* ſeem convinced, nothing leſs can reinſtate them; the latter ſeem apprehenſive, as if the former has a mind to bring it about on your own Terms excluſive of them, to ingratiate themſelves the more with you. 'Tis therefore they think 'tis proper to do it by a Vote of the Partners, and call a new one in order thereunto; ſhould this be, you can't have ſo good Terms as if the Mates did it on their own bortom, but if they find the bent of the Worthy for a free Partners, they will come in too and tye your Hands as well as they can. *Overton* has been of this Mind all along, he put this Notion into their Heads, and dare not recede from it for fear of being called to an Account hereafter.

They think you ſhan't have Courage to ſupport 'em, ſhould they ſtrain a Point to ſerve you.

They know the Nation is againſt Foreign *Allen*, and rather diſtreſs their own Native, they can ſooner redreſs ſuch Grievances than be rid of the latter. They took round about Ways to bring it to bear with leſs Hazard. *Hall*'s Ambition was a good Handle to them to carry on the Game with Succeſs and no Suſpicion; the Hints I gave from Time to Time, were ſeaſonable, and they improve them hitherto to your Advantage, and *Hall*'s Diſadvantage. *Hall* is buoy'd up with Hopes of being made Deſpot. Did he think or foreſee what's to come, he would certainly contrive to go off with Speed, and make up with *Joſeph* on his own Terms. I know he looks on the Lords to be the meaneſt of the three Eſtates of the Nation, not worthy the Title they bear, this is what they ſay daily, if he finds they won't ſtand by him, he will quit without Delay, no Matter how.

Leſtril may do what they pleaſe in the matter, *Allen* will ſupport them, and make your Proceedings, be they what they will. They have got the Mape and Credit, *Hall* has neither.

I am of Opinion things will come to end amicable Way, 'tis to no Purpoſe to compare Notes now, 'tis to the Purpoſe to find means to come to end Matters amicably.

I believe you will have Meſſages from all Parts to tender their Services, one comes with me and ſets out in a few Days to let you ſee what they intend to do and comply with their Deſire forthwith nothing but your Preſence.

The Deſire of *Hall* was to keep the *Fethertons* a 300, but *Rogers*'s Letter gave it another Turn.

Extract

Extract of the Depoſition of Serjeant Matthew Plunket *of* Drum-Alley *in* Drury-Lane.

Sept. 21. 1722.

HE the ſaid Serjeant depoſeth on Oath, that one *James Plunket*, a Sollicitor, living in the back Lane behind the *Caſtle-Tavern* in *Drury-Lane*, came to the Deponent in *July* laſt, to the beſt of his Knowledge, from Counſellor, or Mr. *Layer*, to deſire him to meet the ſaid *Layer* at the *Italian* Coffee-Houſe in *Ruſſel-Court*.

C 43.

Extract of the further Examination of Serjeant Matthew Plunket.

Sept. 22. 1722.

WHO having heard his former Examination (taken Yeſterday before *Kingſmill Eyre*, Eſq;) read, does affirm the ſame, and every Part thereof to be true; and ſays that upon Recollection he does further remember the following Particulars: That he was above an Hour in Diſcourſe with Mr. *Layer* in the Coach Houſe Gate, near *Turn Stile*, mentioned in his ſaid Examination, and among other Things *Layer* aſked him, *What he thought of Lord* North *and* Grey *for an Officer to be at the Head of the Rebels.* To which the Examinant anſwered, *He had never been under his Lordſhip's Command, but he looked upon him to be a great Man, one of the Peers of the Land.* Then *Layer* aſked him, *What he thought of the Earl of* Stafford *for a General.* The Examinant returned the like Anſwer. Then *Layer* aſked the Examinant his Opinion of General *Primroſe*. The Examinant ſaid, *He had lately ſeen him, the firſt Time at* Chelſea, *paſſing by in his Coach, but he was an old Man.* To which *Layer* replied, *No Matter for that, he was a brave General.* That *Layer* aſk'd him alſo, *What he thought of General* Webb. The Examinant ſaid, *He had heard a great Fame of him.* That *Layer* told the Examinant, *All the Perſons abovenamed, were ready for a Riſing to head the People, and that* James Plunket, *mentioned in the former Examination, told him the ſame.*

C 44.

The further Examination of Serjeant Matthew Plunket, *of Captain* Francis Wigg's *Company of Invalids at* Plymouth.

Octob. 7. 1722.

WHO ſays that *James Plunket* the firſt Time he came to him at his Lodgings in *Drum-Alley* in *Drury-Lane*, (which happened in *June* laſt, as the Examinant beſt remembers,) aſk'd him ſeveral Queſtions, particularly, *Whether he was well acquainted in the Army among the Soldiers.* The Examinant anſwer'd, *He knew many of them that had been with him in* Spain *and at* Preſton; *Plunket* then told the Examinant he came from Mr. *Layer*, and under the Arch, as they were coming out of the Alley into *Drury-Lane*, he deſired the Examinant to pick out as many Serjeants as he knew in the Guards, to recommend them to Mr. *Layer*. That the next Time the Examinant ſaw *Plunket*, which was in two or three Days after, he invited the Examinant to his Chamber, who went thither accordingly, and there *Plunket* told the Examinant that Mr. *Layer* was a very good Man, and was the only Man the Examinant could depend upon to do him Service; that the Deſign upon which he was to introduce the Soldiers to *Layer*'s Acquaintance, was to do Service to the Pretender, by diſciplining thoſe of the Mob, who were to riſe in his Favour. The Examinant ſays that all the Tranſactions he had with *Plunket* were to engage him in Perſon, and by his Acquaintance among the Soldiers to ſerve the Pretender. The Examinant ſays, that in the meeting he had (as beforemention'd) with *James Plunket* at his Chamber, *Plunket* told the Examinant that the Deſign of employing him, was to procure Soldiers to join in a Riſing that was to be in Favour of the Pretender, and that afterwards *Plunket* met the Examinant in *Convent-Garden*, and ask'd him, *What he had done?* The Examinant anſwer'd, *He went on very well, and that he was acquainted with many of the Soldiers, and* Plunket *bid him go, and tell Mr.* Layer. The Examinant farther ſays, that *Plunket* told him the Buſineſs (meaning the Invaſion and Rebellion) had been done before, but that the *French* Ambaſſador wrote to the Regent, and the Regent wrote of it to King *George*, (or Words to that effect) and it was upon that Account that the Army was ſent to Camp.

Jurat. 7 *die Octobris* 1722.
Coram me Ch. Delafaye.

The Mark of
Matthew M. P. Plunket.

Extract of Minutes taken at the Examination of Chriſt. Layer *before the Committee of Council* Sept. 21. 1722.

THE Examinant being aſked whether he knew any body that went by the Name of *Rogers*, he anſwered that Mr. *Plunket* always made uſe of that Name in *Italy*, and had kept that Name ever ſince, and believed he often wrote and ſign'd by that Name. Being aſked what Letters his Wife carried into *France*, and from whom, he confeſſed ſhe carried a Letter from Mr. *Plunket* to General *Dillon*. He ſaid that Mr. *Plunket* travelled with him into *Italy*, was with him at *Rome*, and came back with him.

Extract of Minutes taken at the Examination of Chriſt. Layer, *before the Committee of Council*, Octob. 1. 1722.

THat he (the Examinant) aſked *Plunket* by what Name he ſhould call Lord *Orrery*, and he told him *Burford*; That he alſo aſked him three or four other Names; as by what Name he ſhould call the Regent? and *Plunket* ſaid *Steele*. What Name he ſhould uſe for General *Dillon*? and *Plunket* told him *Digby*.

He (the Examinant) ſays he applied to *Plunket* for ſuch Names as were not in the old Liſt. Being interrogated concerning the following Nick Names, he ſays, that *Simmons* or *Simms* is Lord *North* and *Grey*, the little Soldier is Lord *Londonderry*, Mrs. *Skinder* is Mrs. *Hughes*, Nurſe to the Pretender's Son; *St. John* is the Pretender; That all thoſe Names which are in a ſeparate Paper now produced were told him by *Plunket*.

The Examinant ſays, *Plunket* told him the Earl of *Orrery* was at the Head of a Tory Club, of which were Lord *Stafford*, Lord *North* and *Grey*, Lord *Scarſdale*, Lord *Bathurſt*, Mr. *Shippen*, Mr. *Hutchinſon*.

That he (*Wilſon*) was recommended as a Man of Integrity, by *Murphy* and *Plunket*.

C 46.

L' Examination de Jean Deperthe *demeurant dans* Berry-ſtreet *dans la Paroiſſe de St.* Jaques Weſtminſter, *Marchand du Vin.*

QUi dit que depuis la fin d'Aouſt dernier *Jaques Plunket* l'a aſſiſté dans ſon Commerce et qu'il lui donnoit tant par Barrique pour le Vin que le dit *Plunket* lui faiſoit vendre; qu'il a un Reçeu; du dit *Plunket*, qu'il l'a veu ecrire le dit Receu; et qu'il croit que la Lettre qu'on luy preſente dateé *July* 23. 1722. eſt de l'ecriture du dit *Plunket*.

Capt. et Jurat. 17 *die Novembris* 1722. J. Deperthe.
coram me Ch. Delafaye.

The Examination of John Deperthe *living in* Bury-ſtreet *in the Pariſh of St.* James Weſtminſter, *Wine Merchant.*

WHo ſays, That ever ſince the end of *Auguſt* laſt *James Plunket* has aſſiſted him in his Trade, and he gave him ſo much a Hogſhead for all the Wine which the ſaid *Plunket* helpt him to ſell. That he has an Acquittance from the ſaid *Plunket*; That he ſaw him write the ſaid Acquittance; and that he does believe the Letter now ſhewn to him, dated *July* 23. 1722. to be the Hand-writing of the ſaid *Plunket*.

J. Deperthe.

Capt. & Jurat. 17. *die Novemb.* 1722.
Coram me Ch. Delafaye.

The

The Examination of Richard Coleman, *living in* Martlet-Court, Bow-Street, *in the Pariſh of St.* Martin's in the Fields, *in the County of* Middleſex, *Taylor. Jan.* 9. 1722.

WHO being asked how long Mr. *Plunket*, now a Priſoner, lodged in his Houſe, ſays, he has been his Lodger ten Years, but was ſometimes abroad for half a Year together; That one Time in the Reign of Queen *Anne*, the ſaid *Plunket* told him he went to *France*; that at that Time the Examinant had a Note of his Hand for ten Pounds, which the ſaid *Plunket* took up when he came home. That the Writing now ſhewn the Examinant in his Book, Page 162. is the ſaid *Plunket*'s Hand-Writing, and the Examinant ſaw him write it. The Examinant being ſhewn a Letter from the ſaid *Plunket* to Mr. *Layer*, (which was taken among *Layer*'s Papers,) and alſo being ſhewn a Letter, dated *July* 23. 1722. and ſigned *Jo. Rogers*, The Examinant ſays, as to the former, he cannot be poſitive, but as to the laſt, dated *July* 23. 1722. and ſigned *Jo. Rogers*, he ſays he believes it is his Hand; and that he has ſeen him write, and ſeen his Hand more than once, and has ſeen old Things tumbled about the Houſe, which he took to be of *Plunket*'s Writing, and that were in the ſame Hand-writing. Being ſhewn the large Cypher, ſeized among the ſaid *Plunket*'s Papers, the Examinant ſays he believes that alſo is his Hand-Writing.

Jurat 9o die Januarii 1722. *Richard Coleman.*
coram me
Cha. Delafaye.

C 48.

The Depoſition of Thomas Elliot, *living in* Martlet-Court, Bow-Street, *in the Pariſh of St.* Martin's in the Fields, *in the County of* Middleſex, *Taylor. Jan.* 9. 1722.

WHO ſays he once ſaw Mr. *Plunket*, now a Priſoner, write, at which Time, he wrote a Line in his Maſter *Richard Coleman*'s Book of Accounts, fol. 162. Being ſhewn a Letter dated *July* 23. 1722. and ſigned *Jo. Rogers*; he ſays he believes the ſame Hand that wrote the ſaid Line in his Maſter's Book of Accounts, fol. 162 wrote the ſaid Letter, dated *July* 23. 1722. and ſigned *Jo. Rogers*.

Jurat 9o die Januarii 1722. *Thomas Elliot.*
coram me
Cha. Delafaye.

C 49.

A Letter from N. Wogan, *with the Depoſition of* Anne Spear.

Octob. 18. 1722.

I Have found the Copy of the Key I left with the Duke of *Berwick*, which you have encloſed, if you'd have it enlarged, we can do it hereafter, in the mean while make the beſt uſe on't you can. I am,

One a Clock. *Your Moſt Humble Servant,*
N. Wogan.

ANNE the Wife of *Edward Spear*, one of His Majeſty's Meſſengers, maketh Oath, that *James Plunket*, a Priſoner in her Huſband's Cuſtody, having deſired that one of his Books (being the Somme of *Thomas Aquinas* in *Latin*,) might be brought to him, the ſame was accordingly brought to him about *Monday* or *Tueſday* laſt was ſev'night, and ſhe examining the ſaid Book before it ſhould be delivered to him, found this Paper therein.

Jurat 18*mo die Octobris* 1722. Anne Spear.
coram me
Cha. Delafaye.

King

A Cypher of Names taken among Plunket's *Papers.*

Octob. 29. 1722.

N.B. *By the Folds it does exactly fit a Note found in a Book of his from* Nic. Wogan, *who tells him he ſends him incloſed a ſhort Cypher.*

K. *James*	Mr. *Kery.*
D. *Berwick*	Mr. *Dumont.*
K. *George*	Mr. *Atkins.*
The Prince	Mr. *Aldſworth*
D. *Marlborough*	Mr. *Eyrs.*
Lord *Sunderland*	Mr. *Dunbar.*
Lord *Stanhope*	Mr. *French.*
Mr. *Dillou*	Mr. *Drycot.*
Mr. *Plunket*	Mr. *Reyley.*
Mr. *Wogan*	Mr. *Henley.*
The Parliament	Mr. *Hall.*
The H. of Lords	Mr. *Venables.*
The H. of Commons	Mr. *Walton.*
The Whigs	Mr. *Evans.*
The Tories	Mr. *Waters.*
The King's Friends	Mr. *Jolly.*
The Army	Mr. *Hunter.*
The *Germans*	Mr. *Jones.*
The Miniſtry in general	Mr. *Gerardin.*
The Regent	Mr. *Ferrard.*
The K. of *Spain*	Mr. *Willoughby.*
The *French* Embaſſador	Mr. *Talbot.*
The Congreſs	The Company.
The Regency of *England*	Mr. *Fellows.*

The

Cypher taken among James Plunket's *Books, by Mr.* Jones *the High-Conſtable, and* Chandler *the Meſſenger.*

The Original is in Plunket's *own Hand-writing.*

Octob. 30. 1722.

A.		B.
Abbe Dubois	—	Batts
Argyle Duke	—	Brown
Agents	—	Brokers
Alberony	—	*Mrs.* Betty
Arthur	——	Briſcow
Alliance	—	Buſineſs Bed
Army	—	Barrells, Bowes
Arms	——	Bruſhes

B.		A.
Bavaria D.	—	Auſted
Berwick	—	Ampton
Berwick D.	—	Aſh
Bing Sir *Geo.*	—	Asburne
Bothmer	—	Andiron, Altop
Bremen	—	Artown, Argele
Bullingbroke Lord	—	Arbereg, Arpinder
Biſhops	—	Artiſts, Amuſers,
Beretti Landi	—	Ambroſe
Brown Coll.	—	Ardſly

C.		D.
Cadiz	—	Damports
Cadogan Lord	—	Dakers
Cæſar Mr.	—	Darby
Camock Cap.	—	Deval
Commons Houſe	—	Debtors
to put in Commiſſion		Diſcharge
Craggs	—	Dadſtone
Czar	—	Dane
The Clans	—	December
Court Party	—	Deſtar
Country Party	—	Demſter
Catholicks	—	Dupont
Chancellor Lord	—	Dobbin
Court	—	the Dame
Common People	—	Dicer
Court of *Spain.*	—	Dennis

D.		C.
Devonſhire D.		Caſewells
Diſſenters	——	Caſey
Deſcent	—	a Cabinet
Dillon	——	Cane
Dublin	——	Cleare
Dunkirk	—	Chirtons
Dutch	——	Caters
Duffus Lord	——	Cragmore

E.

Echlin Gen.
Edenborough
Emperor
to Embark
Eng.
Engliſh Gentlemen
Eugene P.
Everard Sir *Red.*
Expreſs
Empire
Enterprize

F

Famouth
Flanders
Fleet
Foot
Forces
Forage
Fortify
the *French*
the *French* King
Frigottes

G.

George K.
Germany
Gibraltar
Gualtiro Cardinal
Gore Lord
Glaſgowe

H

Hague
Hanover
Hanmer Sir
Holland States
Horſe
100 Pounds
100 Men
100 Horſe
100 Arms

I

Jering
Ireland
Iriſh Gentlemen
to Invade
Iriſh Officers
Iriſh Troops in *France* --
Iriſh Troops in *Spain* --

K.

Kent
the King

L.

Lanſdown Lord
Law Jon. Will. Law
Lawles Sir *Pat.*
London
the Lords

F

Fern.
Fardo's
Fell
Fral
Filpots
Fox
Fridds
Fly
Frake
Falwood
to Fence

E.

Eaton
Edgars
Emſon
Elpin
Ermines
Embroidery
Embelliſh
Ewins, Eſſex
Eder
Ellis, Ellmore

H

Hawksby, Hannal
Hands, Hardis
Hatley's, Hapton's
Humes, Howard
Haylet
Howell

G.

Garways
Gamſted, Gawſons
Goddart
Galberry
Grafts
a Gage, Globber
Gown, Girt
Garter, Grater
a Gally Pot

K.

Kidder
Kelbys, Kivets
Kerſey
Know, Kiſs
Kremer
Kemner
Kelſon, Korton

I

Jeſſops
Jackſon, Jepſon

M.

Maſan
(1 Mouſan) 2 Miller
Maſam
Mallen, Moral
Monden, Madley,

Maga-

M.

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Marlb. D.
Mar Lord
Miniſtry
Monteleon
Miniſtry in *France*
Montague D.
Morgan Capt.

N.

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Newcaſtle
Norris Sir *John*
North and *Grey* Lord
Non-Jurors
Nottingham
Newcaſtle D.

O.

Oglethorp Mrs.
Oxford Lord
Ormond D.
Owens Coll.

P.

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Peterborough Lord
Phipps Sir *Conſ.*
Pope
Prince of *Wales*
Peace

Q.

Queen

R.

Regent
Regiment
Rome
Rooth Gral.

S.

Scotland
Scotch
Spain, K. *Spain*
Stanhope Lord
Stairs Lord
Stanhope Coll.
Sweeden
Sweeden Q.
Sunderland Lord
Ships

T.

1000 Men, Horſe
Troops
1000 Arms
Treaty
Tranſports
Townſend Lord
Marq. *Torcy*

V.

Vienna
Villeroy
Villars

W.

Webb
Will. Granter
Wyndham Sir *Will.*
Weals
the Weſt
Wogan Nic.
War

L.

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Laving
Lane Layburne
Leſtril, le Rue
Logan
Levaillin, Lacy
Leval
Lemon

O.

Obſtacle
Orbel
Ortell
Oſten
Orgon
Oliver
Oland. Ofield

N.

Napper, Newberg
Nap, Neſtle
Nox, Northey
Nemor

Q.

Quilan, Quince
Quiford
Quitel
Quillel
Quaffel
Quarrel

P.

Parſon Penny feather

S.

Santlow, Steele
Slicer, Saddle
Story's
Smart

R.

Roſtal, Rovier
Robins, Roberts
Rolls † Rouals, Radnalls
Riſden
Raymond
Roper
Ryford
Rigger
Ribbon, Reddle
Roundle, Royſton

V.

Viſiters, Veal
Utenſils, Vines
Violins
Variance, Underſtanding,
Underlings
Uſvy, Uſman
Vanderſlye, Vanderkirke

T.

Thorpe
Teller
Therry

X.

Xeno, Xele
Xipſi, Xoel
Ximenes, Xinſki
Xanchy, Xibber
Xifield, Xiſt
Xafind, Xoland
Xyford, Xuſland

Cypher

Cypher Numeral, Plunket's.

A,,	B,,	C,.	D,,	E,.	F,,	G,,	H,,	I,,	K,,	L,,	M,,	N,,	O,,	P,,	Q,,	R,,	S,,	T,,	U,,	X,,	Y,,	Z,,
10,,	14,,	19,,	1,,	16,,	11,,	2,,	15,.	13,.	12,,	17,,	4,,	18,,	9,,	7,,	5,,	8,,	6,,	20,,	22,,	21..	23,,	3,,
46,,	24,,	45,,	25,,	26,,	44,,	43,,	27,,	42,,	28,,	41,.	29,,	40,,	30,,	39,,	31,,	38,,	32,,	37,,	33,,	36,,	34,,	35,,

Ba.	be.	bi.	bo.	bu.	Ca.	ce.	ci,	co,	cu.	Da.	de.	di.	do.	du.	Fa.	fe.	fi.	fo.	fu.	Ga.	ge.	gi.	go.	gu.	Ha.	he.	hi.	ho.	hu.
47.	48.	49.	50.	51.	52.	53.	54.	55,	56.	57.	58.	59.	60.	61.	62.	63.	64.	65.	66.	67.	68.	69.	70.	71.	72.	73.	74.	75.	76.

Ka.	ke.	ki.	ko.	ku.	La.	le.	li.	lo.	lu.	Ma.	me.	mi.	mo.	mu.	na.	ne.	ni.	no.	nu.	Pa.	pe.	pi.	po.	pu.
77.	78.	79.	80.	81.	82.	83.	84.	85.	86.	87.	88.	89.	90.	91.	92.	93.	94.	95.	96.	97.	98.	99.	100.	101.

Qua.	que.	qui.	quo.	quu.	Ra.	re.	ri.	ro.	ru.	Sa.	fe.	fi.	fo.	fu.	Ta.	te.	ti.	to.	tu.
102.	103.	104.	105.	106.	107.	108.	109.	110.	111.	112.	113.	114.	115.	116.	117.	118.	119.	120.	121.

Va.	ve.	vi.	vo.	vu.	Xa.	xe.	xi.	xo.	xu.
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Coppy of a Letter from C. Howell, to Mr. James Rogers, at Mr. Arthur's the Banker's in King-ſtreet, London, 9 April 1721. This was ſtruck out, and in another Hand was written——Plunket; taken among Plunket's Papers.

Wedneſday, 9 April 1721.

SIR.

MR. *Chevers* gives me Directions to return you Thanks for your two laſt Letters which he received, bearing Information of Family Concerns, which he prays you'll pleaſe to continue, and be ſomewhat more particular, in Reference to Mrs. *Demſters* Progreſs; the Affection he bears her is ſuch, that he cannot be fully ſatisfied with the general Notion of her doing well. As they Report Mrs *Benner*'s Family is to meet at *London*, make it your Buſineſs to learn what they are diſpoſed to do; and whether Mr. *Emton* ſtands fair for his intended Journey; as likewiſe if he parts, who he leaves in truſt behind him to take Care of the Houſe. For to know well theſe Heads, I believe it neceſſary you ſhould addreſs to one of his Clerks.

This Country affords no very important News; much Diſcontent about breaking the Company, and the Actioners being left to the King's Diſcretion, who appropriates to himſelf, all the Effects of the Company, under Pretence of Defficiencies in the Bank, which by whom occaſioned will not be examined: Thus they make ſhort Work of it here, and give a Precedent to People there for the like Behaviour, which I believe they will follow if they can.

We have not a Word of the Congreſs; but Rumours of War, founded as I ſuppoſe, upon laying aſide a Deſign that was in Hand of reforming their Troops, Money is ſtill very ſcarce.

My kind Service I pray to Mr. *Killigrew*, whom I will not trouble this Poſt with a Letter, not having any thing worth while; but that all Relations abroad are in good Health.

I am, with Truth and Eſteem.

SIR,

Your moſt Humble and Obedient Servant,

C. Howell.

C. 54. 55.

Digby *to* Rogers, May 20, 1722; *Directed to Mr.* James Rogers *at Mr.* Arthur's *Banker in* King-ſtreet, London.

SIR, *May* 20, 1722.

I Am to return you my Thanks for the Trouble you have taken in informing me of the Situation our Stocks were in from time to time. I ſhould be ſorry that any untimely Accident would occaſion your abſenting your ſelf from Buſineſs, when you give ſo great Hopes of their coming to a good Iſſue; for which Reaſon I muſt wiſh the Motives for your Journey may be over before this reaches you. I ſhall not trouble you with more at preſent, but pray you will believe me very ſincerely, Sir,

Your moſt Obedient

and moſt Humble Servant,

Digby.

Pray addreſs for me hereafter under Cover to Mr. *Waters*, Banker in *Paris*.

I make Oath that this is the Original of a Copy taken by me of a Letter which was opened at the General Poſt-Office, dated *May* 20, 1722, ſigned *Digby*, and directed to Mr. *James Rogers* at Mr. *Arthur*'s, Banker in *King-ſtreet*, *London*, and is in the

C. 55.

the ſame Hand-writing with the Letters that have been opened at the General Poſt-Office ſince *April* laſt, which were ſigned ſome by the Name of *Howel*, and others ſeverally by the Name of *Quickvel*, *Querry*, *Cane*, *Chivers*, and *Bonnaville*.

Robert Clarke.

Jurat 1mo *die Januarii*, 1722.
Coram me
Ch. Delafaye.

C. 56.

A Letter from A. D. *to* Robert Dillon, *Eſq*; 10 *May*.

10 *May*, 1722.

My Dr Nephew,

I Could not reſolve to ſlip ſo fair an Opportunity as offers by the Bearer, without aſſuring you of my true Love and Affection; and as he is your ſincere Friend and Well-wiſher, I have charged him to ſay many Things to you from me, which will conduce to your good, if you conſider them as they deſerve, and I hope you will.

I hope to hear from you, and am very ſincerely,

Your Affectionate Uncle,
and moſt Humble Servant,
A. D.

C. 57.

Rogers *to* Digby, *the* 21 *of* May, 1722; *under Cover of* Mr. Waters *Banker at* Paris.

London, May 21, 1722.

Dear Sir,

I Had the Favour of yours of the 20th Inſtant two Poſts ago; I could not anſwer it ſooner, being in the Country to paſs the Holidays with ſome Friends.

I have nothing new to add, but that *Leſtrill* is continuing to keep *Hanal* here at leaſt as long as they can. The fair Sex is for it, which is a good Point gained; they think his Abſence will make them ſtand more precarious than they do now: I am ſatisfy'd their Proceedings will make more Precautions daily (neceſſary.) I hope in a little Time Mr. *Joſeph* will be their only Refuge. *Burford* and his Club ſeem to think ſo; they will have a Finger in the Pye if they can; I know they can come in for a good ſhare in it, if they can have a little Concert and Regulation; there are thoſe that will undertake to do the Jobb in twelve Hours Time; a little Time will ſhew whether they'll give fitting Encouragement; if two or three is taken off, no matter how, *Hawkby* will go off by Hook or by Crook, and of Courſe the Lowty will be for *Joſeph*; if ſo, they'll think themſelves betrayed; this has been communicated to your Friends; let them do which they will, I ſhan't ſeem to meddle or know more on't; if they ſtir in it, *Leſtrill* will infallably be aforehand with them, and ſpeedily too.

I have no News, only they are taking up People daily, and ſoon diſcharge them again; one *Johnſon*, an Acquaintance, was taken up Yeſterday Morning; he burnt his Papers, or ſome Love-Letters; he ſeems to be eaſy in the Matter; 'tis believed he will be out ſoon, for I believe they'll get nothing by him; he was to be examined this Day; I can't hear as yet what 'twas.

The Motive of my Journey is over at preſent; my Pocket feels it; the Man muſt be fed with Money now and then; the labouring Oar will, I believe, be laid on me. If any Thing new offers, you ſhall know it from

Your moſt Humble
Obedient Servant to command,

Sir, Pray addreſs to me at *Howell*'s Coffee-Houſe in *Great Wild-ſtreet*.

J. Rogers.

Rogers

Rogers *to* Digby, May 31. 1722; *under Cover of Mr.* Arthur, *Banker at* Paris.

London May 31, 1722.

I Sent you a Letter two Poſts ago, in Anſwer to yours of the 20th, incloſed under Mr. *Waters's* Cover; I hope you had it, becauſe you might conceive by it, that *Hanal's* ſtay would raiſe Stocks. *Leſtrill* has gain'd their Point; for he not only ſtays, but alſo acts as he is deſired. I find *Steel* had a Hand in keeping him; ſo that they will carry on their Game ſafely and leiſurly, without any Oppoſition whate'er from the Club, or any of Mr. *Joſ.* Friends, let them be ever ſo Sanguine, they can do nothing as long as *Steel* ſtands by *Leſtrill*; but ſhould *Northy* come with half a dozen Saddles only, he would carry his Point, and make *Hanal* run for't.

'Tis now in *Laving* and *Steel's* Power to oblige all of them to give Mr. *Joſ.* a *Carte Blanche* if they pleaſe.

Leſtrill was making Buttons for fear *Hanal* ſhould go; *Rogers* managed the matters ſo that he was fond of going, knowing it to be the only Thing that could Spur on *Laving* and the reſt to ſerve you, and make *Burford* and the Club to exert themſelves in your Favour; if the latter have a Mind to have *Hawkſby* delivered up to them, he ſhall; there are thoſe that will undertake it, and offer to do whatever required. Tho' the Club ſeem ſanguine at preſent, I am of Opinion they'll hardly come into any Thing to ſerve you this Seaſon. If *Leſtrill* ſees them have any Concert, I am ſatisfied they will join with them in proper Meaſures, as alſo *Steel*; the latter ſtands on a narrow and precarious Bottom, their Buſineſs is to bring over every Body to their own Opinion, and amuſe all thoſe concerned in the Law-Suit as long as they can, and unite Perſons of all Denominations in one Intereſt againſt *Hawkſby* or *Joſ.* when ever he comes. This was the late *Ribbon's* Scheme, and *Neſtle* was and is now preaching it up as much as he can; which is the Cauſe that Mr. *Joſeph's* Affairs are ſo backward; had it not been for this Doctrine, his Law Suit had been more forward; he is now on coming to Town, and I am ſure he will rather puzzle than ſpeed any Cauſe with his Paradoxes and Excentrick Meaſures; he will be raiſing Diffidences and Jealouſies in the Minds of the People, as 'twill be hard for them to get over in haſte; they han't as yet got over the Diffidence, his pedantick Doctrine has raiſed in their Minds, when he had the Management of the Law-Suit.

I have nothing new to ſend you, only the Miniſtry is ſtill ſifting to the Bottom of the Plot; and ſhould they not, they'll take Care to ſecure themſelves; tho' there ſhould be a riſing in moſt Parts, if the Mob is beat in one Place, the reſt will go Home and be quiet for ſeven Years more; but the Kings Preſence and the Regent's Aſſiſtance will be enow to prevent all Diſordes here.

I hear Mr. *Aſh* is lately come to you there, and he is going a long Journey; therefore, I ſhan't write to him at preſent. I have nothing to ſay to him; but that his Uncle can do him and his Relation Service; tho' all is in his Power, yet he may be unhing'd, and that ſooner than he is aware of, and conſequently loſe an Opportunity to make an Attonement for the paſt; ſhould that be, let him depend upon't, he and his Poſterity will be branded with Infamy; 'twont be in any Bodies Power to hinder it. Let him adviſe *Laving* his Uncle to improve the Opportunity the ſooner the better.

Jonſon is admitted to Bail, and will be out in a few Days; there was nothing againſt him. I am

Yours to Command,

J. Rogers.

Rogers

C. 59.

Rogers *to* Digby. *June* 21. 1722.

London, June 21, 1722.

SINCE I had yours of the 20th *Ult.* I ſent you four or five Letters; I hope you had 'em. I am now at a Loſs how to improve the Hints I have now and then from the *Hardiſlins*, *Laving* and his Son-in law being gone off the Stage with no Credit to themſelves, or Good to us. I muſt confeſs they have improved all the Hints I gave them from Time to Time to Mr. *Joſ.* Advantage, and to the Satisfaction of *Steel* and *Lacy*.

Hanal is now reſigned entirely to *Dakers* and *Uſman*; they are both reſolute and active, but too muddle-headed to improve any thing to Mr. *Jepſon*'s Advantage; *Laving* and *Ribbon* could. Howe'er I ſhall find means to confound 'em and the *Hardiſlins*, and give you and your Friends here an Opportunity to carry on any thing they have aimed to your Advantage. *Burford* and his Club think themſelves ſlighted by *Steel* and *Lacy*; he may have room to repent it early or late; for ſhould this *Quilam* be broke, and a new one called, he may find himſelf more embarraſs'd than he is aware of. They own, *Neſile* when in Power, did play faſt and looſe with the late *Edar* and *Lacy*, but *Demiter* or Mr. *Joſeph*'s Friends are not to anſwer for him; he gloried to out wit Mankind, and bring himſelf off at honeſt Men's Expences; they diſown him and his Actions, therefore they ſay he, and not they, ought to ſtand and fall by them. They conceive *Steel* joyns with *Hannal* to be revenged on them, if he ſtands *neuter*, and they will ſoon bring the Law-ſuit to bear; ſo far I am ſatisfied of it, that four or five Girts, and as many Gally-pots, with fifteen Gages, will compleat the Matters in a little Time, and give a good Account of *Hannal* and *Leſtrill*; the *Bowes* wants only an Opportunity to do their Duty. This Scheme, if duly and diſcreetly managed, will give them a fair Oppportunity to do it. Were we ſure *Steel* would not interpoſe, we would take it in hand forthwith.

I am well ſatisfied he will have a Hand in whatever is a doing for Mr. *Joſ.* therefore if he and *Dening* will but ply *Hannal* with large Demands, bring *Dean* down to *Gamſtead*, Mr. *Joſ.* will have a *Carte Blanche* from *Leſtrill* and *Hannal*, as alſo from all the reſt of his Friends and Foes. This I take to be the beſt and ſafeſt Way both for Mr. *Jepſon* and his Well-wiſhers.

When you write to your Friends, pray acknowledge the Receipt of my Letters, and you will oblige, Sir,

Your Affectionate Friend

and Humble Servant,

Jo. Rogers.

C. 60.

Rogers *to* Digby, July *the* 4*th*, 1722; *under Cover to* Mr. Waters *at* Paris.

London, July 4, 1722.

I Hinted, dear Sir, in my laſt, 'tis now in *Dennis* and *Steel*'s Power to ſend Home Mr. *Joſeph* with a *bonne Grace*, and much to their Advantage. I am not ſingle in my Opinion, 'tis but to inſiſt on the Promiſe *Hannal* made them, and they will have a fair Pretence to ſend him away, and give a great Releaſe. I am deſired by ſome leading Quilams to let Mr. *Steel*'s Agents here know it, which I did this Morning, and as they know ſome of them, they ſeemed to give Attention to me. But it ſeems *Leſtrill* makes them believe Money will ſilence the Quilams, and bring them over to *Hannal*'s Intereſt. I told the Agents they will hardly venture their Neck at this Time of Day for any Money the Dame can advance.

Now

Now is the Time for *Steel* and *Lacy* to ſerve you, if they do not, I can aſſure them, they may have room to repent it; for Mr. *Joſeph*'s Friends will find Means to get into the Saddle, in ſpite of *Leſtrill* and *Hannal*. I am ſatisfy'd your Friends will join with *Steel* or any Body to bring Mr. *Joſeph* on any Terms, rather than this *Leſtril* ſhould have a Hand in bringing of him. They ſay 'tis more honourable for him to join with the Body of a Kingdom, than with a vile Set of Men that ſtand on a narrow Bottom, and at the ſame Time, live very precarious with *Hannal*. This is what the Friends have been telling me, ever ſince my laſt to you. I thought proper to let you know it, that you may make your own Uſe on't; I can aſſure you, Deſpair has made ſome to take a Reſolution to lay violent Hands on *Hawksby*; but there is a ſtop put to 'em at preſent; 'tis not Mr. *Jepſon*'s Intereſt, but you can't do ſo always; an ill Precedent is dangerous: 'Twas and ſtill is in Mr. *Steel*'s Power to make every Thing more forward; and I can tell you, 'tis dangerous for ſeveral Reaſons to dally any more. I think, he ought to be convinced, that he can't get but very little Advantage by keeping the *Hardiſtins* here much longer, and to give them their due, they ſay, they dont care how ſoon they go away; they are for getting what they can, and dont care for ſtaying longer than they are getting, and being in a Condition to ſerve ſelf. If your Friends in *Quilam* ſee you can do no good, and continue in doubt, they may join with the Enemies to be revenged on *Steel* and *Lacy*; 'tis what they oft repeat. I have ſeen the Nurſe, ſhe gives her Maſter and his Lady a high Character. She foreſaw *C. H.* would a rul'd her at long run, as he did greater Favourites than ſhe, then came off with a good Grace. She ſays, ſhe will do more Service here than by ſtaying, which is all occurs at preſent, from

SIR,

Your Humble Servant,

J. Rogers.

POSTSCRIPT.

I believe I may venture to impart the true Sentiments of *Steel* and *Lacy* of Mr. *Joſeph*, which I fiſht in the Diſcourſe of their Agents on ſeveral Occaſions. 'Tis Mr. *Joſ.* Misfortunes not to have the Name of a Man of great Parts and Reſolution, let his Integrity be ever ſo great; ſo may be an Enemy to their Intereſt if in ill Hands; now I take him to be the reverſe, and told them as much; to this they anſwered, if *Leſtrill* and *Laving* thought as much as I, he would have been here long ago; for did they think him to be a Man of true Courage, they would venture to ſtrain a Point to ſerve him more effectually, and would not take ſuch round about Ways; *viz.* by making uſe of the ſtupid Ambition of the *Hardiſtins*, to bring *Dicer* and the *Toxes* to a Temper of Duty.

The Inferences they make from this, you ſhall know in a Poſt or two.

C. 61.

Rogers *to* Digby.

London, July 5, 1722.

SIR,

I Have had a long Conference this Morning with *Steel*'s Agent; I convinced him that if *Dennis* and *Steel* will but inſiſt on the Stipulation *Hannal* made with them, 'twill be a Means to bring Mr. *Joſ.* Law-Suit to bear forthwith, for *Quilam* won't dare oppoſe *Dicer* and *Dempſter*; beſides, *Leſtrill* and *Hannal* ſtand on ſo narrow a Bottom, that the *Bowes* won't ſtand by 'em againſt the great Bent of the *Toxes* and *Dicer*.

Hitherto he had no great Opinion of *Burford* and the Club, and ſeems to own, if they had a true Concert, and were as reſolute as *Leſtrul*, *Steel* would ſoon come into Meaſures to ſerve Mr. *Joſ.* It is not his Buſineſs to declare himſelf, or enter into any Meaſures with them that could taint the *bonne Foy*. I told them. 'twould be no Breach of their *bonne Foy* to be grateful to thoſe that were their Deliverers formerly, and 'twas dangerous to ſlight ſo great a Body as *Dicer* and *Dempſter*: They are ſo incenſed againſt the *Dame*, that the leaſt Accident would ſure over-turn what they have been doing theſe ſeven Years paſt.

He could not but own to me, 'tis now in Mr. *Steel's* Power to make *Leſtrill* and *Hannal* give Mr. *Joſeph* a *Carte Blanche*, and by ſo doing, make *Fell* vomit up what he has now in *Flanders* or elſewhere, without ſtriking a Stroke; and that 'tis in his Power to get *Dicer*, *Dempſter*, and all the *Toxes* to joyn with him in proper Meaſures to do it; I told him farther, could Mr. *Joſ.* Friends but be ſatisfied that *Steel* and *Lacy* would ſtand *Neuter*, they would ſoon bring Mr. *Joſ.* Law-ſuit to bear, independent of any whatever: He anſwer'd, 'twould be a hard Matter to convince *Steel* of what I ſaid, and if that could be, he would be glad on't, and would not oppoſe them, and nothing but Actions ſhould convince him.

On the whole, he own'd *Leſtrill* can't hold it long, and that if Mr. *Joſ.* Friends would but exert themſelves, they would ſoon run *Hannal* and *Leſtrill* down. I am ſatisfied he will write theſe Sentiments to his *Dame*: Your Buſineſs is to enforce them, and ſo you'll let *Steel* ſee you have the ſame Sentiments from other Hands here.

My Fellow-Traveller is, and has been very active ſince his coming from his Travels; he is more ſerviceable than thoſe that move in a much higher Sphere; He is ſpurring on the Club daily, and made a great many of them more active and ſtir in the Law-ſuit, than they otherwiſe would have done.

His Wife parted hence Yeſterday for *Paris*: I gave her a Letter to you; he thought himſelf entitled to it, or any Civilities you can do her during her Stay there.

Your Friends continue their Preparations, and are reſolved to hold themſelves in a Readineſs on Occaſion. I ſhan't ſeem to know any Thing of their Proceedings. They got a Notion I got Schemes to bring Mr. *Joſ.* on arbitrary Terms. My Companion will ſupply my Place. *Neſtle* was the Man that poſſeſs'd them of this Notion; he ſtays in the Country, and keeps his Son with him, that he mayn't run any risk for *Joſ.* on any Cauſe whate'er. This I have from a good Hand; he is for raiſing of Diffidence in the Minds of your Friends; 'twas always his Maxim; he'll do no good, nor let any body elſe do it.

This Place affords no News, only Lord *Whitworth* goes hence in three or four Days for the Congreſs by the Way of *Paris*; 'tis ſaid *Spain* don't inſiſt on *Gibraltar*; ſo that 'twill ſoon end, and K. *G.* will gain a good Point; ſhould he not gain it, he will be hard put to it. I have no more to add, but that I am, dear S.

Yours to Command,

Jo. Rogers.

C. 62. 63.

Rogers *to* Digby, July 23, 1722; *A Monſieur Monſieur* Digby.

July 23, 1722.

BY the Time this comes to Hand, *Hannal's* Agent will arrive there; I am glad on't, becauſe I hope all the Obſtacles and Proceedings of *Leſtrill* and *Hannal* will be laid before *Quilam*, which will be a means to ſend him to *Gamſtead*; tho' he thinks to bring *Dempſter* to approve of whatever he will propoſe to *Quilam*, he will hardly bring even *Deſtar* to do it. He thinks to diſculp himſelf at the Expence of the Dead; this I told ſome of the *Quilams*, they ſay 'twon't do for Love or Money.

Certain Perſons are forming Projects, that will diſtreſs *Dennis* in Caſe of *Xeaford*, between *Rolls* and *Fell*; *Andizon* comes into it by *Hannal*'s Connivance; 'tis now in Embrio, when it comes to Perfection, I ſhall be Maſter on't; I gave a hint on't to *Steel*'s Agent; he was not a little ſurprized at it; they muſt not linger much longer, if they do, *Fell* and *Hannal* will find Means to diſtreſs *Dennis* and *Lacy*; they muſt haſten the Quarrel to prevent it.

My Companion who has been in the Country this three Weeks paſt, came to Town Yeſterday; he ſeems to be ſure of his Game, (*viz.*) that Mr. *Joſ.* Friends will run down *Leſtrill* and *Hawksby* in a little Time, and bring the Law-ſuit to bear on their own Bottom, and independent of *Steel.* or any Body elſe. I am reſolved to know nothing of their Proceedings; I am for having every Thing laid afore *Dulam* firſt, and then every Body will ſee we want Mr. *Jepſon*, more than he does us; both Friend and Foe will join in any Fence that will be made in his Favour: Neither will they ever dare upbraid him, if on any Occaſion he ſhould look a Squint on 'em hereafter. I hinted often the only Way to ſpirit 'em up, was to convince 'em, the Law-ſuit would be brought to bear without them, and that by *Steel* and *Hannal*; the Conſtruction they put upon this, is, that the former was ſubtle enough to make uſe of the Folly of the latter, to play the Game to his own Advantage at our Coſt, *i. e.* he will govern Mr. *Joſ.* when here, as he does now *Hannal*; this, or ſome ſuch Imagination gave them an uncommon Reſolution, and I believe they will ſtruggle hard for a Start in the Race of Honour. 'Tis in *Steel*'s Power to make *Hannal*, *Leſtrill* and the Club to give Mr. *Joſ.* a *Carte Blanche*: 'Tis incumbent on you to convince him of it. I am ſure his Agent here is already, for I gave him this Morning demonſtrative Proof, that *Hannal* deſigns to ſupport *Fell* againſt *Eder* and his *Coſs.* and that without being ſeen in it.

I would be glad to know how Mr. *Aſh* does, and if he continues there this Summer. I have little to do in Town, ſo I deſign to go to the Country for three Weeks, The Town is dull and empty.

We hear *Dane* is in Motion; I wiſh it may be towards *Gamſtead*, for *Hannal* would ſoon move from his Country Seat here. I believe Mr. *Joſ.* will laugh when he'll hear of the Stratagem I made uſe of, to bring his Friends to ſo good Temper of Duty. I hope they will keep to it, which is the Wiſh of

SIR,

Your Humble Obedient Servant.

Jo. Rogers

C. 64.

Copy of a Letter from J. Rogers *to* Mr. Waters, *to be delivered to* Mr. Digby *at* Paris.

Auguſt 16, 1722,

I Have nothing now to tell you, only Mr. *Joſeph*'s Law-buſineſs continues in the ſame Plight, my Companion goes on as he thinks very ſucceſsfully, and is confident he will bring the Buſineſs to bear in a little Time; I can aſſure him and you, he will meet with little Oppoſition from *Uſman* and his Brother-in-law, for they ſeem now convinc't that *Hannal* and his *Hardiſtins* will ſacrifice them. —— *Rogers* found means to convince them on't beyond Diſpute, you may be ſatisfied 'tis now in *Steel*'s Power to oblige either *Leſtrill*, or *Burford* and his Club to give a *Carte Blanch.* I muſt own *Dakers* manages as one could wiſh, for the Houſes will be ſoon, as diſguſted as the reſt of the Friends, they ſay, want only an Opportunity of being revenged of *Dakers* and *Hannal*, you may aſſure your ſelf *Uſman* and his Brother-in-law ſhall be kept to their Duty, and do it, tho' ever ſo much againſt their Inclination, I found Means to vex them to the very Heart within theſe few Days.

We

C. 64.

We are continually giving *Steel* and *Lacy* fair Opportunity to ſerve Mr. *Joſeph*: 'tis your Buſineſs to make them do it, for I look on't impoſſible for you to bring your Law Buſineſs to a final End, if he or *Lacy* be againſt it. He may think it his Intereſt to prolong it. His Agents here have got the *Hardiſtins* into their Hands, and turns and winds them and *Leſtrill* as they pleaſe: Money will do any thing.

Mr. *Joſeph* muſt promiſe *Steel* and *Lacy* fair, and that will be a faſt Friend when in his Power, 'tis the only Game he has to play at this Time, you muſt ſeem to rely more on them than on any here.

Burford and his Club think *Leſtrill* and *Steel* are in a Combination to ſend Mr. *Joſeph* here independent of them, and that I am for it, I ſhan't undeceive them, for I find nothing will unite them more: They ſeem to be angry with me for't, but I matter it not, becauſe hereafter I believe they will thank me. I have no more to add, but that I am

Yours,

J. Rogers.

C. 65.

Copy of a Letter from J. Rogers *to Mr.* Digby *at* Paris; *under Cover to Mr.* Waters.

London, Auguſt 23, 1722.

SIR,

MY Friend came out of the Country a few Days ago, he tells me his Clients ſeem now to deſpair of bringing your Law Buſineſs to bear this next Term, unleſs *Steel* is made a Party; I told him in Caſe they apply themſelves to him in a proper Manner, he may be prevail'd upon to come into proper Meaſures at leaſt indirectly, and that without breach of any *bonne Foi* he owes *Hannal* or *Leſtrill*; they are for any Thing, but under their Hand, in Caſe they apply to you or *Steel*, ye may ſafely offer at leaſt to come into their Meaſures, becauſe afore you come to cloſe with them, you will find they'll flinch. This I take to be a good Way to ſtop their Mouths hereafter, for they will blame *Steel*, Mr. *Joſ.* and all his Friends; they ſay they are ſlighted both here and there, and *Steel* puts it out of their Power to ſerve you. I think with Submiſſion, 'tis pitty to hinder them from plunging themſelves as they did afore, for certainly you will find your account in't, the more they ſtir and exert themſelves in your Favour, the fonder *Steel* and *Lacy* will be to ſtir up *Dakers* and *Leſtrill* to ſerve you, tho' it be ever ſo much againſt their Inclination. I think Mr. *Joſ* is a Gainer by what they have done of late, and I find they will be under a neceſſity to run ſuch Lengths as will turn to your Advantage even his next Winter: 'Tis in *Steel* and *Lacy*'s Power to make the enſuing *Quilam* to give Mr. *Joſ.* his own Terms: 'Tis but to lay afore 'em all the Tranſactions of *Leſtrill* and the *Hardiſtins*, ſince *Hannal*'s coming here. They muſt in their own Defence ſend for Mr. *Joſ.*

Now that *Edar* is to be ſoon of Age, he may do every Thing with a good Grace, and *bonne Foi*, and ſettle Mr. *Joſ.* ſo that't will be always in his Power to ſerve him and *Dennis*: For both ſides are now vying with one another to ſerve you, and one is afraid the other will get the Start.

Steel's Agents here, are or ought to be now convinc'd that *Fell* and *Hannal* are contriving how to diſtreſs *Dennis* and *Edar* ſome Time hence; they flatter themſelves that *Quilam* will come into their Meaſures; *Uſman* and his Brother-in-law makes 'em believe they have Caſh enow to do it. *Hannal* gives 'em to underſtand, that he will put himſelf at the Head of the *Bowes*, and make 'em dance after his Pipe; his daily Proceedings ſhews it, and we all apprehend it; (ſo much the better for *Joſ.*)

This Place affords no News, the Plot, tho' in mine and every body's elſe Mind is ill-grounded, had its Effect, it hinder'd the *Tories* to enterprize any Thing againſt

the

the Government, and *Hannal* applauds *Leſtrill* for't, and ſays 'twas a good Invention.

This *Andiron* writes to his Friends abroad; he ſays 'tis an eaſy Matter to frighten *Joſ.* Friends from doing their Duty.

My Companion tells me, there will Application be made to *Steel* ſoon, and by your means pray encourage it ſo, as to leave no Room for 'em to reproach Mr. *Joſ.* here on Terms contrary to their intereſt: They often told me as much, but I laugh at them, nor do I matter what they ſay, they are and ſhall be pinch'd more and more daily, and they ſhan't be the wiſer, nor know from what Quiver the Arrow comes. I have widened the Breach between *Uſman*, his Brother-in-law, and the *Hardiſtins*, ſo that 'twill turn to your Account. I am.

SIR,

Yours,

J. Rogers

C. 66.

Chitwood *to* Jemiſon, 2-13 *May*, 1722. *Extract.* *From* Dillon *to*—— *under Cover to* Geo. Kelly.

Extract of a Letter from Chitwood *to* Mr. Jemiſon, *under the Cover of* Mr. James Baker, *Merchant, at* Burton's Coffee-Houſe, *near St.* James's.——*Wedneſday*, 13*th* *May*, 1722.

PRAY when you ſee my Couſin *Rogers*, aſſure her of my beſt Reſpects, and how much I depend on her friendly and kind Offices in forwarding my Family Concerns, which have great need of ſo good Aſſiſtance.

C. 67.

Extract of a Letter from J. J. *to* Mr. Chivers, *under the Cover of* Mr. Waters, *Banker at* Paris. 7 *May*, 1722. *From* Geo. Kelly *to* Dillon.

Extract of a Letter from J. J. *to* Mr. Chivers, *dat. Monday, May 7th*, 1722.

MR. *Hore* is laid up in his old Diſtemper, and if he had been ſo for ſome Time paſt, I believe it would not be amiſs for himſelf and others, for *Farmer*'s Favours to him, *&c.* I hear has given great Offence to ſome People, and *Jemiſon* ſays, that *Rogers* hearing of the Freedom which he and ſome of his Partners took with him in ſome Places here, is much diſobliged at it, and has ordered him *Jemiſon* to tell you ſo.

C. 68.

Extract of a Letter from Querry *to* Ireton. 27. *June O. S.* / 8. *July N. S.* 1722.

From Glaſcock, *Secretary to* Dillon *to* Geo. Kelly.

Extract of a Letter from Char. Querry *to* Mr. Ireton, *under Cover to* Mr. Andrews, *at the* Dog *and* Duck *in* Kingſtreet, London. *Wedneſday, 8th July,* 1722.

WE have not a Word by laſt, form any Body but *Ja. Rogers.*

C. 69.

Copy of the Pretender's Letter to John Plunket. *Siezed in Mrs.* Creagh's *Lodgings.*

Thurſday Morning.

THIS is only to direct you not to mention any Thing of Buſineſs to any Body till I have ſeen you; I have not much Leiſure to Night expecting Viſits; but however, I ſhall be glad to ſee you alone, and agree with you the moſt private Way and Manner for your Companion and me to meet; The Bearer *F. Kennedy* will bring you very privately to my Houſe to Night about eight a Clock.

James R.

Directed for Mr. *Plunket.*

C. 70.

Examinations of Mary Faghan, 4 *and* 5 *February,* 1722-3.

The Examination of Mary Faghan, *Servant to* Iſabella Creagh *Widow, Lodging at* Mr. Bandford's, *in* Wardour-ſtreet, Soho.

WHO ſays, that about two Months before *Michaelmas* laſt, as ſhe believes, Mr. *John Plunket,* who owes her Thirty Shillings, gave her a ſmall Piece of printed Paper, in which were wrapt up, as he told her, a Note or Notes upon which Money was due to him, the Sum he named was five Pounds, and bid her give it to her Miſtreſs to lay by for him, and when he received that Money, he would pay the Examinant what he owed her. That the ſaid printed Paper in which the other Paper or Papers were wrapt up, was tyed about with a white Thread; that there was no Seal upon it, and by the Bigneſs it might contain the two Papers now produced to her, which have juſt now been taken out of her Miſtreſs's Cheſt of Drawers; that the ſame Day ſhe had received thoſe Papers, (which happened in her Miſtreſs's Abſence) ſhe deliver'd them to her ſaid Miſtreſs *Iſabella Creagh* when ſhe came Home, telling her from whom ſhe had them, and that they were a Pledge for the Money he owed her, and ſince that the Examinant has not ſeen them; that ſhe never opened the Packet to look at them, that not being able to write or read, and does not know whether the Papers now ſhewn her be the ſame Papers which the ſaid *John Plunket* gave her or not.

Capt. & jurat 4to Die Februarii, 1722-3, *Coram me,*

Ch. Delafaye.

The Mark of

o

Mary Faghan.

The

The further Examination of Mary Faghan.

BEING ſhewn a Letter from the Pretender, dated *Thurſday* Morning, ſigned *James R.* and directed for Mr. *Plunket*, all in one Hand-writing, ſuppoſed to be the Pretender's own Hand-writing, which was found on the Ground in her Miſtreſs's Bed-chamber by the Chimney, near which the Examinant then ſtood this Afternoon: She denies having any Knowledge of the ſaid Letter, or having ever ſeen it before, that ſhe knows of, or having dropt it there. She ſays, as far as ſhe knows it might be one of thoſe that were delivered to her wrapt up in a printed Paper by *John Plunket*, as is mentioned in her former Examination. But ſhe does ſtill inſiſt, that ſhe gave thoſe Papers thus wrapt up to her Miſtreſs, without looking into the Packet; and that the ſaid *John Plunket* told her, they were Notes for Money, and ſhe never knew any Thing to the contrary.

Capt. & jurat 4to Die Februarii, 1722-3,
Coram me,

Ch. Delafaye.

The Mark of
&
Mary Faghan.

The further Examination of Mary Faghan.

WHO ſays, that the Papers ſhe gave to her Miſtreſs, as is mentioned in her former Examinations, were the very Papers which were given to her by *John Plunket* in her ſaid Examinations named, and no other; that ſhe received them from his own Hands; that he bid her to give them to her Miſtreſs to keep for him, and that ſhe gave them to her Miſtreſs in the ſame Condition ſhe had received them, without any Addition or Diminution, the ſaid Papers having been conſtantly in her Cuſtody from the Time ſhe ſo received them, to the Time ſhe gave them to her Miſtreſs, which might be about ten Hours.

Capt. & jurat 5to Die Februarii, 1722-3,
Coram me,

Ch. Delafaye.

The Mark of
&
Mary Faghan.

C. 71.

The Examinations of Iſabella Creagh, *4to & 5to Februarii* 1722-3.

The Examination of Iſabella Creagh, *Widow*, *Lodging at* Mr. Bandford's *in* Wardour-ſtreet, Soho.

WHO ſays, that about two Months before *Michaelmas* laſt, *Mary Fagan*, her Servant, gave her a very ſmall Packet of the Size, as ſhe believes, of the two Papers now ſhewn to her wrapt up in a Piece of printed Paper, and tyed with a white Thread, but not ſealed, telling her, ſhe had received it as a Pledge from Mr. *John Plunket*, who owed her Money; that ſhe never opened the ſaid Packet to ſee what was in it, but put it into one of her Drawers, and does not know what is become of it, but believes it may be loſt, for that about *Michaelmas* laſt ſhe removed from Lodgings ſhe had in the *Hay-Market* to thoſe ſhe is in at preſent, and in bringing her Cheſt of Drawers hither, the Drawers flew open in the Street, and her Papers and other Things that were therein were diſorder'd, and ſeveral of them were loſt. The Examinant ſays, that ſoon after ſhe had received the ſaid ſmall Packet, the ſaid *John Plunket* coming to ſee her, ſhe asked him what it contained, and he told her Papers relating to Money: The Examinant further ſays, that the two Papers now produced, which were

were juſt now taken out of her Cheſt of Drawers, one being a Promiſſory Note for 930 Livres, ſigned *Richard Cantillon*, and the other a like Note for 10 *l.* ſigned *Tinmo Beghan*, were given her about three Years ago by the ſaid *John Plunket* to keep for him, and that ſhe never had any Papers of his but thoſe two Notes, and what her Maid gave her, as is abovementioned.

Capt. & jurat 4to Die Februarii, 1722-3, *Iſabella Creagh.*
Coram me,
Ch. Delafaye.

The further Examination of Iſabella Creagh.

WHO being ſhewn a Letter directed to Mr. *Plunket*, dated *Thurſday* Morning, ſigned *James R.* all of one Hand-Writing, the Pretender's own Hand-Writing, which was found in her Bed-Chamber near the Chimney upon the Ground by Mr. *Thomas Jones*, and by *Daniel Chandler*, *Valentine Randall*, and *John Turner* Meſſengers; ſhe ſays, ſhe does not know how it came there, that by the Size of the ſaid Letter it might be one of the Papers in the ſmall Packet given her by her Maid-ſervant, who told her, ſhe had it from *John Plunket*, as mentioned in her former Examination, and which *John Plunket* afterwards owned to have left with her Maid, and ſaid they were Papers relating to Money; but ſhe does ſtill inſiſt that ſhe never open'd the ſaid Packet, nor knew what Papers were in it.

Capt. 4to Die Februarii, 1722-3,
Coram me, *Iſabella Creagh.*
Ch. Delafaye.

The further Examination of Iſabella Creagh.

WHO ſays, that ſhe has recollected that the Letter from the Pretender which was ſhewn her laſt Night at her Examination above-written, was among the Papers her Maid-ſervant *Mary Fagan* gave her, having received them from *John Plunkett*, and which he owned to have left with her; that ſhe now remembers that ſhe look'd over the ſaid Papers, and the ſaid Letter was among them.

Capt. & jurat 5to Die Februarii, 1722-3, *Iſabella Creagh.*
Coram me,
Ch. Delafaye.

C. 72.

Copy of the Depoſition of Mrs. Harcourt. *February* 18*th*, 1722-3. *proving* Plunket's *Hand.*

The Depoſition of Mrs. Sarah Frances Harcourt, *of* Park-Place, *in the Pariſh of St.* James's.

WHO ſaith, that ſhe has often ſeen *John Plunket* now in Cuſtody write, and that ſhe has often employed him to write for her to *Monſieur Dupin* at *Paris*: And ſix Papers being now ſhewn to her; the firſt a Letter directed *A Monſieur Monſieur* Digby *a Paris*, ſigned *J. Rogers* dated 23d *July*, 1722. The ſecond a Cypher of Names. The third, a Letter directed to Mr. *Jackſon*, dated *March* 22, 1721. The fourth, a Letter directed to Mr. *Layer*, ſigned J. *Plunket*, and dated *November* 8, 1720. The fifth, a Paper beginning, *Sir, I thought it needleſs.* And the ſixth, a Paper beginning, *I believe I may now venture.* She the ſaid Mrs. *Harcourt* ſays, that the ſaid ſix Papers (which ſhe has ſeverally marked) are, to the beſt of her Knowledge and Belief, the Hand-Writing of the ſaid *John Plunket.*

Capt. & jurat 18mo Die Februarii, 1722-3,
Coram me, *Sarah Frances Harcourt.*
Townſhend.

Examination

Examination of John Plunket. 25 *January*, 1722-3.

The Examination of John Plunket, *before the Committee of the Houſe of Commons, on the 25th January*, 1722.

1. WHAT Particulars have at any Time come to your Knowledge, any Ways relating to the late Conſpiracy?

1. TO the firſt Queſtion he anſwers that he ſtands clear, and knows no more of the Conſpiracy than the Child unborn; that he neither was aiding or abbetting to it, nor ever preſent at any Meeting or Conſultation relating to it; that he knows nothing of *Layer*'s Tranſactions, and that if *Layer* ſays, he, *Plunket* was directly or indirectly concern'd in it, it is a great Falſhood.

Being ask'd what Countryman he is, and where he was bred, he ſays he was born at *Dublin*, and bred at *Vienna*, in the Jeſuit's College while he was a Boy, and that he afterwards ſtudied the Civil-Law at *Vienna*; that he is a Roman Catholick, but not in Orders.

That his Journey to *Rome* was accidential, that *Layer* bore his Expences; but that he had no other Reward from *Layer* or any one elſe for it, and he would be glad to travel now on the ſame Terms.

2. Was you ever employ'd by *Chriſtopher Layer* or by any other Perſon; and whom, to engage any Officers or Soldiers of the Army; and whom, in an Inſurrection in Favour of the Pretender? Did you ever your ſelf make Application to any Officer or Soldier; and whom, to enroll or diſcipline Men for the Service of the Pretender? Did you ever hear, or tell, any one what Perſons were ready to head an Inſurrection laſt Year, in Favour of the Pretender? Whom did you Name as ready, and to whom, and what Reaſons had you for believing ſo?*

To the 2*d* Queſtion he anſwers in the Negative, and ſays, that *Layer* was ſo far from truſting him himſelf, that he *Layer* caution'd every Body elſe not to truſt him, as believing him *Plunket* to be in the Intereſt of the preſent Government. Being ask'd whether he knew that *Layer* had any Secrets relating to the Conſpiracy which he might have truſted him with, he ſays no; That *Layer* did indeed once ask him, whether he thought, he *Layer* might find by the Means of Monſieur *Chamorel*, how far the Regent of *France* was diſpoſed to come into *Tory* Meaſures. He ſays, he never in his Life ſpoke to any Body, nor any Body to him relating to an Inſurrection.

3. Was you ever employ'd by the Pretender, or any of his Agents Abroad, or at Home, and by which of them; in carrying on the Pretender's Affairs in *England*, or did you ever tell any one that you were ſo employ'd?

To the 3*d* Queſtion he anſwers in the Negative; he ſays, he knows no Agents of the Pretender Abroad or at Home, nor was ever employ'd by any of them, nor ever told any Body he was ſo employ'd as he remembers.

4. When, and on what Occaſion, did you firſt become acquainted with *Layer*? Did you ever write to *Layer* in Relation to the Pretender's Affairs?

To the 4*th* Queſtion he anſwers, that he became acquainted with *Layer* two or three Years ago accidentally at a Coffee-houſe, grew intimate with him as he might do with other Gentlemen; he owns he went to *Venice* and *Rome* with him, but ſays he never wrote to him as he remembers.

5. Did you write the Letter directed to *Layer*, dated 8*th November*, 1720.

To the 5*th* Queſtion he anſwers, that he could not ſwear the Letter ſhewn him

and ſign'd J. *Plunket*? — What is to be underſtood by the obſcure Paſſages in that Letter?

6. What was the Occaſion of *Layer*'s and your Journey to *Rome*? did you and he before you left *England*, concert any Buſineſs to be tranſacted Abroad with the Pretender or his Agents? What was it, and what Correſpondence had you with any Body Abroad, in Order to that Journey? Did you yourſelf carry over, or were you privy to *Layer*'s carrying over any Letters, Meſſages, Liſts of Names, or Aſſurances of Service from Perſons in *England* to, or, for the Pretender, and from whom? Did you ſend any Notice to the Pretender, or any other Perſon Abroad in his Intereſt; that *Layer* was to carry over any ſuch Liſt, or Tenders of Service, and what Reaſon had you for ſo doing?

7. Did you paſs through *Antwerp* in your Way to *Italy*? Did you receive any Letter there, and from whom, directing you what Perſon you and *Layer* ſhould apply to, upon your Arrival at *Rome*, to introduce you to the Pretender?

to be his own Hand Writing if it were in a Court of Juſtice: — That he does not believe it to be his Hand-writing: — That he does deny that Letter to be his Hand-writing: — That his Name is not *Plunket* but *Plunket*; that he does not know whether he ever ſigned any Letter by the Name of *Plukenet*. Being adviſed not to prevaricate, he ſays, do I prevaricate? — I anſwer all your Queſtions.

To the 6th Queſtion he anſwers, that *Layer* did not tell him of any Intentions he had to go to *Rome*, at the Time of their ſetting out, but only ſpoke of going to *Venice*, and did not acquaint him (*Plunket*) with the Occaſion of his going to *Venice*. Afterwards he own'd, that *Layer* did acquaint him with his being to go to *Venice* on Occaſion of a Law-ſuit or Money-Affair, relating to a Siſter of Lord *Yarmouth*'s, and that he *Plunket* told *Layer* he knew *Alberti* her Son; but he ſays, he is not ſure whether this Diſcourſe paſſed before they ſet out from *England* or not; but he inſiſts that *Layer* never told him he intended to go to *Rome*. He ſays, he did not himſelf, nor does he know that *Layer* did previouſly to his Journey concert any Buſineſs to be tranſacted Abroad with the Pretender, or ſettle any Correſpondence: That he *Plunket* carried no Inſtructions, and believes that *Layer* carried none. That he never ſaw any Liſt carried over by *Layer*, nor does he know of any; nor did he ever write Word to any one that *Layer* carried over a Liſt, or the Liſt, or Tenders of Service; nor did he ever ſend Notice to any one Abroad that *Layer* and he were coming.

To the 7th he anſwers, that he and *Layer* did paſs through *Antwerp*, but that he does not remember his receiving any Letter there directing him whom to apply to, to introduce *Layer* and him to the Pretender. He ſays, if you'll ſhew me any ſuch Letter that I received, I'll own it. — You can't prove I received any ſuch Letter. — I'll own all I know. — I received no ſuch Letter. Being asked whether he ever writ to, or received Letters from one that goes by the Name of *Digby*: He ſays, about two Years ago he received a Letter from a Clergyman, a Secular of the Church of *Rome*, formerly Tutor to the Duke of *Berwick*'s Children, ſign'd *Digby*; that the Man's true Name is *Farrely*; that *Farrely* had tranſacted Buſineſs in the Stocks for *Nich. Wogan* and others, and that this Letter related to the Stocks only; that he *Plunket* return'd no Anſwer to it, that he did return an Anſwer to it, but not

by

8. Do you know what Perſons are denoted by the fictitious Names of *Joſeph* and *Dixwell*, in the Letter now ſhewn to you? By whom was the Copy of the Letter there mentioned ſent to *Dixwell*, and for what Uſe? From whom did you expect Letters by *Dixwell*'s Hands, and what was the Addreſs you recommended to him to forward them by? Who is *Francis Kennedy*, and where did he at that Time reſide? What is the *proper Name* by which you were directed to Sign your Letter to *Kennedy*?

9. Did you confer with the Pretender, or with any of his principal Agents, during your Stay at *Rome*? What was the Subject of thoſe Conferences? Were you upon your Return, your ſelf charged, or do you know that *Layer* was charged with any Letters, Meſſages, Inſtructions or Commiſſions, for any Perſons in *England* from the Pretender or his Agents, and for whom? Had you ever any Commiſſions or Blank Receipts for Money, Sign'd by the Pretender in your Cuſtody, or did you ever ſee any ſuch in the Poſſeſſion of *Layer*? For what purpoſe were ſuch Commiſſions, and where may they be found?

10. Did *Layer* at any Time after his Return from *Rome* make you privy to the Part he had in the Conſpiracy? Did he ever ſhew you any Scheme for an Inſurrection, or deſire your Aſſiſtance towards forming ſuch a Scheme?

11. Did you ever dictate to *Layer* any fictitious Names, by which he might denote Perſons in his Letters to the Pretender, or any of the Pretender's Agents Abroad; What were the Names you ſo dictated, and whom were they to denote? What Reaſon had you to believe thoſe Names would be underſtood by the Pretender or his Agents? Did you ever explain to *Layer*, or do you know who were meant by *Burford* and his Club? Do you remember any fictitious Names at

by the Poſt; and ſign'd the Anſwer with his own Name.

To the 8th he anſwers, that he does not know who is denoted by the Name of *Joſeph*; that he never made uſe of that Name in any Letter of his own; that he does not know who is meant by *Dixwell*: That he does know one *Kennedy*, but don't know whether he is in Town. Upon Recollection, he ſays he did ſee *Francis Kennedy* at *Rome* at the Coffee-Houſe, but never in private, nor ever had any private Diſcourſe with him. That he does not know what Employment *Francis Kennedy* has under the Pretender. Being ask'd whether he and *Layer* were directed to apply to *Francis Kennedy* to introduce them to the Pretender; he anſwers in the Negative, and ſays, he did not ſend Word to *Kennedy* of *Layer*'s and his Arrival.

To the 9th he anſwers, that he can't ſay he was with the Pretender alone; he was with him in the Garden, but twenty People were by. He ſays, he did not confer with the Pretender, but he ſpoke to the Pretender in the Garden, and the Pretender ask'd him, if he was lately come from *England*. He ſays, he was not at his Return charged with any Letters, Meſſages, Inſtructions, or Commiſſions, nor does he know that *Layer* was. That he never had any Commiſſions or Blank Receipts for Money, ſign'd by the Pretender, in his own Cuſtody, nor did he ſee any ſuch in the Poſſeſſion of *Layer*.

Being ask'd, whether during his Stay at *Rome*, he ever was with the Pretender in Company with Colonel *Haye*, or *Francis Kennedy*, he anſwers in the Negative.

To the 10th he anſwers, that he never had any Converſation with *Layer* relating to the Conſpiracy, nor did *Layer* ſhew him any Scheme for an Inſurrection, or ask his Aſſiſtance towards forming one. He ſays, he did not keep Company with *Layer*, nor diſcourſe with him, but in the Streets.

To the 11th Queſtion he anſwers in the Negative throughout. He ſays, he has heard of a Loyal Club, and has had random Diſcourſe over a Bottle at a Tavern about ſuch a Club; but that he knows none of them, nor ever had any Converſation or Negotiation with them. Being ask'd what he underſtood by the Appellation of *Loyal*, which was given to this Club; he ſays, it might mean Loyal to their Country, or to King *George*, for ought he knows.

To

any Time made uſe of by your ſelf, or any other Perſon for carrying on Correſpondences with the Pretender or his Agents?

12. From whom did you receive the Letter ſign'd *N. Wogan*, and on what Occaſion? Was the Cypher, mark'd No. 1. *the Duke of Berwick's Key*, which is mentioned in that Letter?

To the 12th he anſwers, that the Letter ſign'd *N. Wogan* was not writ to him, but to one *Hugh Thomas* formerly of the Herald's-Office, who heretofore lodg'd in the ſame Houſe with him, and left there ſeveral old Books and Papers, amongſt which this was one; that *Thomas* did correſpond with the Duke of *Berwick* about getting Subſcriptions to a Book he was Publiſhing; that this *Hugh Thomas* went by the Name of *Rogers*, and received Letters by that Name, and correſponded with General *Dillon*, as he has heard him ſay in Converſation with *Neynoe*, and that the ſaid *Thomas* was in *France* with *Dillon* two or three Years ago. Being ask'd where *Hugh Thomas* is, he ſays he has been dead a Year and half; he *Plunket* could not keep him alive.

13. Is the Cypher No. 2. found among your Papers, of your own Hand-Writing? Who had the Counterpart of that Cypher, and what Correſpondence was carried on by the means of that, or of the Cypher No. 3?

To the 13th he anſwers, that the Cypher No. 2. is not his Hand-Writing; that it belong'd to *Hugh Thomas*, and he found it among *Thomas*'s Books. Being ask'd whether *Hugh Thomas* ever ſign'd *Plunket*, he ſays he does not know that ever he did.

14. The Committee expect you ſhould explain to them what is meant by the fictitious Names, and other Matters contained in the foul Draught of your Letter to Mr. *Jackſon*, dated *March* the 21ſt, 1721, now ſhewn to you; as likewiſe in the foul Draught of your Letter beginning, *Sir, I thought it needleſs*, &c. now ſhewn to you.

To the 14th he anſwers, that he never writ to any one that goes by the Name of *Jackſon*, nor does he know who is meant by that Name.

15. Did you ever correſpond with General *Dillon*, or any Agent or Secretary employed by him? What was the Subject of ſuch Correſpondence, and what the Names by which you or they ſign'd or directed Letters?

To the 15th he anſwers in the Negative, and ſays, he believes he ſhould not know General *Dillon*, if he were to ſee him.

16. From whom did you receive the Letter ſign'd *C. Howell*, dated *April* 9, 1721? Whoſe Hand-Writing do you take that Letter to be? What is meant by the fictitious Names and other Matters contain'd in that Letter?

To the 16th he anſwers, that he never in his Life received any Letter ſign'd *C. Howell*; nor does he know who is meant by that Name.

17. From whom did you receive the Letter ſign'd *Digby*, dated 20th *May*, 1722, whoſe Hand-Writing do you take that Letter to be? The Committee expect you ſhould explain to them the Particulars of that Letter.

To the 17th he anſwers, that he did not receive the Letter ſo ſign'd and dated, that he knows of.

18. Is the Letter of the 23d of *July*, directed *A Monſieur Monſieur Digby a Paris*, of your own Hand-Writing?

To the 18th he anſwers, that the Letter now ſhewn him, ſo dated and directed, is not his Hand-Writing, nor any thing like it.

Who are the Members of (the then) Parliament, meant in the firſt Paragraph

He ſays, he never had any Converſation with any Member of Parliament in his

of that Letter, and what was the Converſation you had with them?

What are the Projects for diſtreſſing the Court of *Spain*, referred to in the ſecond Paragraph? To which of the Regent's Agents did you give a Hint of thoſe Projects, and what Grounds had you for endeavouring to create this Jealouſy between his Majeſty and Foreign Powers in Amity with him?

Who is meant by your Companion in the third Paragraph, where had he been, and with which of the Pretender's Friends had he convers'd? What is meant by the Law-Suit; who did you hint might be ſpirited up by convincing 'em, that the Law-ſuit would be be brought to bear by the Regent and his Majeſty, or to whom did you give that hint? What is meant by the *uncommon Reſolution*, and *the ſtruggle for a Start in the Race of Honour*, and whom do thoſe Words relate to? What was the demonſtrative Proof, you ſay, you gave the Regent's Agent, who is that Agent, and what was the Converſation you had with him?

What is the Stratagem you refer to in the 5th Paragraph, as *made uſe of by you to bring the Pretender's Friends to ſo good a Temper of Duty*? Who were the Friends towards whom you made uſe of this Stratagem, and to what the Temper of Duty to which you brought them?

19. Did you write the Letter to *Digby* of the 21ſt *May* now read to you?

What grounds had you for your Affection in Relation to the Perſons meant by *Burford* and the Club? What was the Job that was to be undertaken, and to be done in twelve Hours time; in what manner, by whom, and againſt whom? From whom was the Encouragement for undertaking it expected, and what was it to be? From whom did you hear there were Perſons ready to undertake it; who were the two or three to be taken off? In what manner and by whom? What is meant by the *Lowly*? To what Friends and by whom was the Communication made, which you mention?

What was *the Motive of your Journey*, whither was that Journey intended, and on what Occaſion, and how came the Motive of it to be over at the Time of your writing this Letter? For what Service did you expect *to be fed with Money*, and from whom? What is meant by *the labouring Oar being to be laid upon you*?

20. Did you write the Letter to *Digby* of the 31ſt *May*, now read to you?

What Reaſon had you to believe that the Perſons meant by *Burford* and the Club would be the readier to exert themſelves on Account of the King's going Abroad? by whom were you empower'd to write his Life-time, relating to publick Affairs.

He ſays, he goes now and then to Monſieur *Chamorel* about Procurations, but never had any Converſation either with him or Monſieur *Deſtouches* relating to State-Affairs.

He denies he ever writ any thing about any Companion.

To the 19*th* he anſwers in the Negative.

To the 20*th* he anſwers in the Negative.

Word that King *George* ſhould be deliverd up to *Burford* and the Cub, if they deſired it? Who where the Perſons that you ſpeak of with ſuch Aſſurance as ready to undertake the delivering him up? In what manner was it to have been executed? What Reaſon had you to believe that the Club had ever any Intentions of doing any Thing for the Pretender's Service that Seaſon?

Who is meant by the Duke of *Berwick's* Relation? What was the Attonement you adviſed that the Duke's Uncle ſhould be preſſed to make?

21. Did you write the Letter to *Digby* of the 21ſt of *June*, now read to you?

To the 21ſt he anſwers in the Negative.

What were the Hints you gave from time to time, for the Pretender's Service? What were the Means you propoſed to find to confound Lord *Cadogan*, Lord *Townſhend*, and the *Germans*? What Grounds had you for what you writ in relation to *Burford* and the Club, and for thinking they were likely to bring the Law-Suit to bear? What is the Scheme you refer to, and from what Aſſurances given, by whom, did you write as follows, *Were we ſure the Regent would not interpoſe, we would take it in Hand forthwith*?

22. Did you write the Letter to *Digby* of the 4th of *July*, now read to you?

To the 22d he anſwers in the Negative.

Who were the leading Members of (the then) Parliament by whom you were deſired to apply to the Regent's Agents to engage *France* and *Spain* in Aſſiſting the Pretender? Who are thoſe Agents of the Regent, and what was the Converſation you had with them?

What Reaſon had you to write that this was the Time for *France* and *Spain* to ſerve the Pretender, and that his Friends would find Means to get into the Saddle in ſpite of the King and Miniſtry? Who are the Friends that told you they would joyn with any Body to bring in the Pretender on any Terms, rather than let the Work be brought about by the Miniſtry?

How came you to be able to aſſure *Digby* that Deſpair had made ſome to take a Reſolution to lay violent Hands on King *George*? Who were the Perſons that had taken this Reſolution? To whom was it communicated? Did you your ſelf at any Time communicate ſuch a Deſign to any Perſon in *England*, and to whom? Who had the Direction of the Perſons that were to undertake it? Who put a ſtop to it for that time, as being inconſiſtent with the Pretender's Intereſt? In what manner was it propoſed to have been executed?

23. Did you write the Letter to *Digby* of the 5th of *July*, now read to you?

To the 23d he anſwers in the Negative.

Who is the Agent of the Regent whom you conferr'd with, and what was the Converſation you had with him? By whoſe

Wice Versâ did you tell him, that the Pretender's Friends would ſoon bring Matters to bear, if *France* and *Spain* would ſtand *Neuter*?

Who is meant by your Fellow-Traveller? What were the Services he had perform'd? Whom did he ſpur on to be active in the Law-Suit? To whom did you give the Letter, and for whom, and on what Account did your Fellow-Traveller think himſelf intitled to Civilities from the Perſon deſign'd, by the Name of *Digby*?

Who were the Friends that continued their Preparations, and held themſelves in a Readineſs? What were thoſe Preparations, what was the Deſign of them, and when was that Deſign to have been executed?

Did you ever employ your Companion to ſupply your Place, with whom, in carrying on that Buſineſs?

24. Did you write the Letter to *Digby* of the 16th of *Auguſt*, now read to you?

What *is* particularly meant by your *Companion's going on ſucceſsfully at that Time?*

What *is* meant by the Opportunities you and your Friends gave to the Regent and Miniſtry in *France* to ſerve the Pretender?

To the 24th, he anſwers in the Negative.

25. Did you write the Letter to *Digby* of the 23d of *Auguſt*, now read to you?

Who is meant by your Friend, and who by his Clients? From whom did you receive this Intelligence? What is meant by theſe Words, —— *They are for any Thing but under their Hand*?

To the 25th, he anſwers in the Negative.

By whom did your Companion tell you, there would be Application ſoon made to the Regent and Miniſtry in *France*, and for what Purpoſe?

26. By whoſe Directions and Advice, or with whoſe Privity did you write the Letters above-mention'd?

To the 26th he anſwers, That he wrote no ſuch Letters.

27. Are you acquainted with *George Kelly* alias *Johnſon*? Did you ever receive Letters from him, and on what Occaſion? Were you ever employ'd by him in any Money Affair, and what? Did you ever receive any Meſſages by him from any of the Pretender's Agents Abroad? Were you privy to his Correſponding with the Pretender's Agents, and with which of them? Do you know of any Particulars of the Part he has had in this Conſpiracy?

To the 27th he anſwers, That he knows one *Kelly* who went by the Name of *Johnſon*; — that he knows him by Sight and Coffee-houſe Acquaintance only; —— that he does not remember he ever receiv'd any Letter from the ſaid *Kelly* alias *Johnſon*; —— that he never was employ'd by him in relation to any Money-Affair. —— Being ask'd, whether he knows of any Money remitted to one *Martin Harrold* from Abroad, for the Uſe of the ſaid *Kelly* alias *Johnſon*; he ſays, he knows *Martin Harrold*, but knows nothing of any Money remitted to him for *Kelly*. He adds, that as he hopes for Salvation, he tells the Truth; —— he has not anſwer'd one Word but Truth.

28. Do you know any Perſon that goes by the Name of *Hore*, or *Jemiſon*?

To the 28th, he anſwers in the Negative.

29. At

29 At what Time, and on what Occaſion did you firſt become acquainted with *Simon Swordfeger* and *Aaron Thompſon*? Did you make them or either of them privy to any part of the Conſpiracy? Did you ever meet *Layer* and *Swordfeger* in Company with *Thompſon*, when and where, and what was the Subject of your Converſations?

To the 29th he anſwers, That he knows *Simon Swordfeger* and *Aaron Thompſon* a Clergyman, having ſold them Wine, but is not much acquainted with them; that he never made them privy to any Part of any Conſpiracy: That he was in Company one Night with the ſaid *Swordfeger*, *Thompſon*, and *Layer*, at *Layer's* Houſe as he remembers; that there were ſix or ſeven more in Company as he remembers. Being ask'd who they were, he ſays, they were all Strangers to him, that one of them was a Merchant out of the City, but his Name he can't call to Mind.

30. Were you ever introduced or promis'd to be introduced to the late King *James's* Queen in *France*, By whom and on what Occaſion? Did you ever receive Letters from the Duke of *Berwick*, Lord and Lady *Middleton*, Lady *Lytcott*, or Sir *William Ellis*, and on what occaſion'd? By whom were the Letters writ that are found among your Papers ſigned *Tiverton*, and who are denoted by the fictitious Names uſed in the ſeveral Letters ſigned *Berwick*, *Dumont*, *Jones*, *Cantelini* and *Tiverton*?

To the 30th he anſwers, that he was in *France* ten or eleven Years ago, and was preſented to the late King *James's* Queen, and received a Letter from the Duke of *Berwick* by *Farrely* for the Lord *Fingall*. That he does not remember he ever had any Letters from the Lord or Lady *Middleton*, or Sir *William Ellis*. That when *Layer's* Wife went for *France*, ſhe carried over with her ſome China and contraband Goods, and upon that Occaſion, he *Plunket* gave her a Letter of recommendation to Lady *Lytcott* as he thinks, but is not poſſitive. Being ask'd whether he gave a Letter of Recommendation to any one elſe, he ſays, he did not, he does not remember that he did. He ſays, he never received any Letters ſign'd *Tiverton*, but that *Hugh Thomas* did, and has told him that *Tiverton* was a Friend of his at *Paris*— That *Hugh Thomas* received Letters from the Duke of *Berwick* likewiſe, as he has told him. — That he *Plunket* knows nothing about the Letters ſign'd *Dumont*, *Cantelini* or *Jones*.

Being ask'd whether he is willing to leave his Caſe with a Committee of the Houſe of Commons, thus weakly defended by Anſwers, which can be proved falſe from the Evidence now before them on Table, he ſays, he is willing to have every thing reported juſt as he has anſwered.— That there can be no Proofs againſt him, he knows his own Innocency, and Affirms with Imprecations, that he never would be concern'd with the *Tories* in his Life.

D.

PAPERS

Relating to the

Biſhop of *ROCHESTER.*

D.

List of Papers relating to the Bishop of Rochester, 1722.

1. Deposition of *Andrew Pancier, Aug.* 24. Page 3
2. Farther Deposition of *Andrew Pancier, Aug.* 25. ibid.
3. Extract of the Examination of *Margaret Kilburne, Dec.* 31. 5
4. Examination of *Elizabeth Harben, Aug.* 10. ibid.
5. Letter from the Duchess of *Ormond* to the Bishop of *Rochester, Jan.* 14. 1721-2. ibid.
6. Letter to Mr. *Dubois, Decemb.* 16. 6
7. Letter from *Roüen* to——— *Jan.* 15. 1721-2. ibid.
8. Letter from Capt. *Halsted* to——— 1722. ibid.
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Copies taken at the Post-Office of Letters.

10. From *T. Jones* to *Chivers, April* 20. ibid.
11. *T. Illington* to *Musgrave, April* 20. 8
12. Letter to Mr. *Jackson, April* 20. ibid.
13. *M*——— to *Hatfield. April* 24. 5. *May*, N. S. 9
14. Extracts of Letters from *Quitwell* to *Saunders, April* 24. 5. *May.* ibid.
15. ——— *Gordon* to *Johnson, April* 29. 10. *May.* ibid.
16. ——— *J. H.* to *Howell, April* 30. 11. *May.* 10
17. ——— *Quitwell* to *Baker, May* 1. 12. ibid.
18. ——— *J. T.* to *Baker.* ibid.
19. ——— *Cane* to *Baker, May* 2. 13. 11
20. ——— *Hatfield* to *Musgrave, May* 7. ibid.
21. ——— *J. J.* to *Chivers, May* 7. ibid.
22. ——— *Quitwell* to *Baker, May* 9. 20. ibid.
23. ——— *Hatfield* to *Howell, May* 10. 12
24. Copy taken at the Post-Office of a Letter from *Jo. Motfield* to Mr. *Illington, May* 11. 22. ibid.
25. Extracts of Letters from *G. H.* to *Howell, May* 14. ibid.
26. ———to *Baker, May* 19. 30. ibid.
27. Copy taken at the Post-Office of a Letter from *Quitwell* to *Williams, June* 7. 18. 13
28. Extract of a Letter from——— to *Gerrard, June* 11. ibid.
29. Copy taken at the Post-Office from *G. W.* to *Quitwell, June* 14. 14
30. Extracts of Letters from *J. H.* to *Dixwell, June* 18. 15
31. ——— ——to *Ireton, June* 20. *July* 1. 16
32. Extract taken at the Post-Office of a Letter from *G. W.* to *Digby, July* 4. ibid.
33. Extract of a Letter taken at the Post-Office from *G. W.* to *Querry, July* 12. ibid.
34. Copies taken at the Post-Office of Letters from *Digby* to *Williams, July* 14. 25. 17
35. ——— *Digby* to Mrs. *Weston, July* 14. 25. ibid.
36. ——— *G. W.* to *Digby, July* 16. 18
37. Extract of a Letter from *D. St. John* to Mrs. *Digby, July* 16. 19
38. Copy from the Post-Office of a Letter from——— *Querry* to *George Williams, July* 17. 28, ib.
39. Extract of a Letter from——— to *Maisonneuve, July* 19. 30. 20
40. Copy from the Post-Office of a Letter from——— *Stanley* to *Drake, July* 26. ibid.
41. Extract of a Letter from——— to *Maisonneuve, July* 26. 21
42. Original Letter from *G. W.* to *Duplessis, July* 30. ibid.
43. Copy from the Post-Office of a Letter from *Chitwood* to *George Williams, Aug.* 1. 12. 22
44. Extract of a Letter from *Querry* to *Ireton, Aug.* 17. 28. 23
45. Copy from the Post-Office of a Letter from *J. W.* to *Duplessis, Aug.* 30. ibid.
46. Extract of a Letter from *Querry* to *Ireton, Sept.* 14. 25. 24

47. Deposition of *John Lawson, Feb.* 25. 1722-3. 25
48. Examination of *William Wood, Feb.* 26. ibid.
49. Further Examination of *William Wood, Feb.* 27. 26
50. Examination of *Thomas Moore, Feb.* 28. 27
51. Minutes of the Examination of *Thomas Moore, Feb.* 28. ibid.
52. Copy of the Bishop of *Rochester's* Letter, seized 26 *Feb.* 1722-3. 28

The Depoſition of Andrew Pancier, *formerly Captain Lieutenant of the Lord* Cobham's *Regiment of Dragoons.*

WHO ſays, That he firſt ſaw one *Skeen* at a Hazard-Table at *Wheatly's* at the upper End of *Bridges-Street Covent-Garden*, about eight Months ago; that they both frequenting that Place grew by Degrees acquainted, and about four Months ago, agreed one Night to go and drink together. The Deponent does not remember which of the two propoſed it; that they then went to the Mitre-Tavern in *Drury-Lane*, and in Diſcourſe the ſaid *Skeen* told the Deponent, that he had been in the *Preſton* Rebellion, where he was Adjutant to the Rebels under *Mackintoſh*: That he, *Skeen*, commanded a hundred of them who were *Mackintoſh*'s advanced Guard, when they were to have made the Attempt upon *Edinburgh*, with diverſe other Particulars; and that he was taken Priſoner at *Preſton*: That after this the firſt Meeting of the Deponent and the ſaid *Skeen* to drink together, they grew ſtill into a greater Intimacy, and frequently went to drink together, ſometimes at the ſaid Houſe, and at other Times at the *George*'s Head near *Drury-Lane*, and at the Roſe-Tavern near the Play-Houſe, and at the Harp in St. *Martin's-Lane*; at which two laſt mentioned Places they were but once; and that Time they were at the Roſe, Sir *Francis Anderton* was in Company with them; but at the other Times and Places they two were generally by themſelves:——— That about two Months ago, or longer, being grown very intimate, the ſaid *Skeen* began to be more open with the Deponent, and owned to him his having been in the Rebellion when Major-General *Wightman* commanded in *Scotland* at *Glenſhields*: That the late Duke of *Ormond* was to have landed at that Time in *England*, but was hindred by contrary Winds, and upon this Diſappointment the Rebels in *Scotland* were ordered to diſperſe, which they did accordingly, and the *Spaniards* were ordered to ſurrender. The Deponent further ſays, That about the ſame Time, or ſoon after, the ſaid *Skeen* began to mention to him, that there was a Deſign carrying on in *England* for placing the Pretender upon the Throne, of which he at different Times told him the following Particulars: That ſix or eight Battalions of *Iriſh* Foot double officer'd were to have come over from *Spain*, which were quarter'd upon the Coaſt of *Galicia* for that purpoſe: That the nine *Spaniſh* Men of War which have joined the *Dutch*, and four more to have been fitted at *Barcelona*, and three at *Alicant*, as he beſt remembers, being in all ſixteen *Spaniſh* Men of War, were to have been employed in this Service: That theſe Troops were to have landed either in *Cornwal* or near *Briſtol*: That there were forty thouſand Stand of Arms in *Great Britain*, part in *Scotland*, other part in *London*, other part in *Briſtol*, and other part in *Cornwal*: That there were ſeven or eight hundred Men with Officers among them in *London* ſubſiſted, and in readineſs for ſuch an Occaſion: That a Sum of 200,000 *l.* had been raiſed by Contribution for carrying on this Deſign, and put into the Management of the Biſhop of *Rocheſter*, who with the Lord *North* and *Grey* were the leading Men among them; and that Lord *Strafford* and Lord *Kinoul* knew the Thing: That the Managers of this Affair in *Spain* were the late Duke of *Ormond* and the Earl *Mariſhal*, and thoſe in *France* were Lord *Marr* and Lieutenant General *Dillon*: That the Court of *Spain* was in their Intereſt, but as to the Regent and Cardinal *Du Bois* they could not tell what to make of them: That this Deſign was to have been exeeuted ſome Time ago, but was then diſappointed by the Regent: That the late Duke of *Ormond* and the late Earl *Mariſhal* were to have come with the Troops beforementioned from *Spain*, and the Pretender about the ſame Time was to have left *Rome* privately, and to have lain concealed ſomewhere near, from whence he would have come over when there had been a fair Proſpect of Succeſs: That as to any Oppoſition they could expect, we had but fourteen thouſand Men in all, of which three thouſand were neceſſary to guard *London*, three thouſand more for *Scotland*, and two thouſand for the Gariſons; ſo that the Remainder would never dare attack thoſe who came from *Spain*; and in the Confuſion, their (meaning the Pretender's) Friends would have been able to have got together and made a Head: That in the Conduct of this Affair there paſt little in writing, and only the four Lords beforementioned, *viz.* the Biſhop of *Rocheſter* and Lord *North* and *Grey* principally, and Lord *Strafford* and Lord *Kinoul* were concerned in the Management of it here: That the Buſineſs was to have been done before the *Dutch* Troops could come to our Aſſiſtance. The Deponent further ſays, that upon his telling *Skeen* he was undone by the South-Sea, and having ſold his Commiſſion could not get into the Service again, and that if he had not been a Married Man, he would have gone into the Service of *Spain*; *Skeen* bid him have Patience, telling him they had greater Hopes of Succeſs than ever, and that the Deſign (meaning that for placing the Pretender on the Throne of theſe Kingdoms) would be

put

D. 1.

put in Execution before the end of *November*, and there would be Employment for the Deponent: That the laſt Time he ſaw *Skeen* was about ſix Days ago, and then *Skeen* talked of the Conſpiracy as a Thing that would certainly ſucceed. The Examinant further ſays, that *Skeen* told him he was related to my Lord *Marr*, and would recommend the Deponent to him, and that he expected to be ſent on a Meſſage to him; and the ſaid *Skeen* propoſed to the Deponent to go along with him, asking if he had not Intereſt enough to get a Paſs, and ſaying the Deponent's Commiſſions for his former Commands in the Army would be a Protection to them in going and coming. The Deponent ſays, *Skeen* talking of the Conſpiracy, ſaid there were to be Riſings at the ſame Time in *London*, *Scotland*, and the Weſt of *England*: That Brigadier *Mackintoſh* was here in *London* four or five Months ago, and he, *Skeen*, had been frequently with him. The Deponent further ſays, that *Skeen* borrowed Money of him at ſeveral Times, and he thereupon asking the ſaid *Skeen* how they (meaning the Pretender's Friends) could let him want Money, *Skeen* told him he might have been upon the Liſt (meaning of thoſe who were ſubſiſted) but that he would not accept of it; and that the 200,000 *l.* beforementioned, which he called the military Cheſt, muſt be kept together till the Project was put in Execution. The Deponent further ſays, that walking in the Park one Day, he ſaw *Skeen* there with one *Du Four*, and that Night the Deponent and *Skeen* being together, he told the Deponent, that *Du Four* had been Page of the Back-Stairs to the late King *James*; had been in *England* ſeven or eight Months; was a Man very neceſſary, and much employed by the Pretender's Friends, and had the Management of ſuch as thoſe who are ſubſiſted as beforementioned, as lodge in *Southwark* and beyond the Tower; for the Men themſelves knew no Particulars of the Deſign, but only that they were to be in readineſs: That the Deponent ſaw *Du Four* with *Skeen* another Time at *Cupid's-Gardens*, and they three came over the Water together. The Deponent ſays, that *Skeen* told him of *Cochran's* being brought up from *Scotland*, and of ſeveral Particulars that paſſed at his Examination, and the Contents of a Letter upon which he was examined. The Examinant further ſays, that he never knew or heard, nor does he believe, that *Skeen* is a Trader in Wines.

Jurat. 24° *die Auguſti*, 1722. *A. Pancier.*
coram me
Ch. Delafaye.

D. 2.

25. *Auguſti* 1722.

The further Depoſition of Capt. Andrew Pancier.

WHO ſays, That going this Morning to ſee ——— *Skeen*, a Priſoner, now in Cuſtody of a Meſſenger, and mentioned in his former Depoſition, the Deponent endeavoured to perſuade him to make an ingenuous Confeſſion of what he knew, and of what he had told this Deponent concerning the Conſpiracy, now or lately carried on againſt his Majeſty's Perſon and Government, but he, *Skeen*, utterly refuſed ſo to do: That the Deponent proceeding to tell him of ſeveral Particulars, by which he might perceive that the Government was informed of his Actions for ſome Time paſt; the ſaid *Skeen* appeared much ſurpriſed at it, and walk'd about the Room, pale and in Diſorder, but uſed this Expreſſion, which he repeated more than once, That he would not ſacrifice his Honour to ſave his Neck, or his Life, or Words to that Effect.

The Deponent upon Recollection further ſays, that at one or more of the Meetings he had with the ſaid *Skeen*, as mentioned in his former Depoſition, *Skeen* told him the Conſpiracy was carried on in ſuch manner, that it was impoſſible for the Miniſtry to find it out, for it was done chiefly by verbal Meſſages, and what Letters were written were all double Entendres; and that the ſaid *Skeen* told him the whole Story of *Cochran's* being brought up from *Scotland*, and of his Examination; the former before the ſaid *Cochran's* Arrival, and the latter the very Night he was examined; being ſo particular, as to tell that it was on a Letter written from *Boulogne* to *Cochran*, mentioning, that the Fi[illegible]ery went on very well, and that 200 *l.* would be wanting to ſupport it, which was deſired to be remitted in all Haſte, and by that they had found out nothing; and the ſaid *Skeen* gave

an

D. 2.

An Account of ſeveral other Paſſages at the ſaid Examination. The Deponent ſays, That *Skeen* told him the Miniſters would hear of the Duke of *Ormond*'s being miſſing from *Madrid*, and the Pretender from *Rome*; and that he told him this about a Month ago, as the Deponent believes.

Jurat. 15° *die Auguſti* 1722. *A. Pancier.*
coram me
Ch. Delafaye.

D. 3.

EXTRACT *of the Examination of* Margaret Kilburne, *of* Little Rider Street, *in the Pariſh of St.* James's Weſtminſter.

WHO ſays, That a Perſon who then went by the Name of *Johnſon*, and as ſhe is informed is now a Priſoner in the Tower, came to lodge at her Houſe about ſix Weeks, as near as ſhe can gueſs, before this laſt *Chriſtmas* was Twelvemonth; that ſeveral Perſons came to ſee and enquire after him, and his Lodgings being on the Ground-Floor next the Street, he often anſwered them himſelf; that ſuch of them as came to enquire after him that ſhe knew of, asked for him by the Name of *Johnſon*; That particularly one Time (on a *Sunday* as ſhe beſt remembers) a Servant came to whom the Examinant her ſelf ſpoke, and he told her he was ſent by the Biſhop of *Rocheſter*, who was afraid Mr. *Johnſon* was not well, becauſe his Lord expected him, the ſaid *Johnſon*, at Dinner that Day, and he did not come; and the ſaid Servant, as ſhe believes, left a Letter for the ſaid *Johnſon*; that Mr. *Neynoe* (who was lately drowned attempting to eſcape out of Cuſtody) did frequently viſit the ſaid *Johnſon*, and lay in her Houſe one Night.

Capt. & Jurat. 31° *die Decembris* 1722. *Margaret Kilburne.*
coram me
Ch. Delafaye.

D. 4.

The EXAMINATION *of* Elizabeth Harben, *of the Pariſh of St.* Mary Savoy, *in the County of* Middleſex, *Grocer.*

WHO ſays, That about four Years ago, Mr. *Cart* a Clergyman came to lodge at her Houſe, and ſtaid with her about a Week; that he deſired her if any Letters came for him ſhe would take them in, and he would pay her what ſhe laid out; that ſhe does ſometimes receive Letters by the Foreign Poſt, directed to Mr. *George Williams* to be left at her Houſe; and one Letter ſo directed ſhe gave to the ſaid *Cart* who paid her the Poſtage, the reſt ſhe has delivered to ſome Perſon who has come for them from Time to Time, but ſhe does not know whom they were for. The Examinant further ſays, That ſhe never received any Letters ſo directed, before Mr. *Cart* lodged at her Houſe; and that to the beſt of her Remembrance, the laſt Time ſhe ſaw Mr. *Cart* was about a Fortnight ago.

Capt. & Jurat, 10 *die Auguſti* 1722. *Eliz. Harben.*
coram me
Ch. Delafaye.

D. 5.

January 14th 172½.

A LETTER *from* M. Ormond *to the Biſhop of* Rocheſter.

My Lord,

I Am very ſorry for the Occaſion of your Lordſhip's going out of Town, and I hope to hear that Health is ſoon reſtored to your Family, though at this Time of the Year, Recovery is not to be expected in ſo ſhort a Time as further in the Spring.

D. 5.

I reſolved to ſend what I received; for tho' it had not happened to belong to the Perſon I addreſt it to, I was ſure it could not be put into better Hands.

I was very far from expecting your Lordſhip ſhould give your ſelf the Trouble of Writing; if you excuſe my Nonſenſical Scrawls, 'tis more than I can with Reaſon deſire.

I am with all the Reſpect imaginable,

My Lord,

Your Lordſhip's moſt faithful humble Servant,

M. Ormond.

D. 6.

December 16.

A LETTER *ſuperſcribed to Mr.* du Bois.

SIR,

FOrgive my Silence: You eaſily conceive the Difficulties I am under in that Regard. I write this only to aſſure you of my ſincereſt and unalterable Reſpect, and refer you to the worthy Bearer for News, and for every Thing, which otherwiſe I ſhould have found ſome Way or other of writing to you my ſelf. I have heard nothing from you ſince the Letter I had about two Months ago by Mr. *Johnſon*, to which I immediately, in his Hand, returned my Anſwer: A Rumour has reached me of your having written hither ſince, but I can find no Body that owns he has ſeen your Letters. I am always,

Sir,

Your truly obedient and faithful Servant.

D. 7.

A LETTER *dated at* Rouen January 15th 1722.

Superſcription torn off.

Dear Sir,

THIS will be delivered to you by an honeſt Gentleman, who is very well known to ſome of your Friends, and I take the Liberty to recommend him as ſuch to the Honour of your Acquaintance. I think my ſelf happy in ſo good an Occaſion, to aſſure you of my entire Reſpect and moſt humble Service. I did my ſelf the Honour to make you my moſt humble Acknowledgments for the laſt Mark of your Remembrance, but do not as yet know if my Letter came to your Hands; it went under Cover to our Friend Sir *Red.* I ſhould be glad to know how I might direct for you, and as I ſhall paſs the Winter here, if you are pleaſed to honour me with your Commands, you may addreſs them, *A Monſieur* Wiſhart *chez Meſſieurs* Arbuthnot & Compagnie *à* Roüen *en* Normandie: I cannot receive a greater Pleaſure than to hear of your good Health, being with all poſſible Reſpect and Gratitude, *Dear Sir,*

Your moſt obedient and moſt obliged humble Servant.

I wiſh with all my Heart that this new Year may prove proſperous to you and your Friends.

D. 8.

Greenwich, Wedneſday 4 a-clock.

A LETTER *from Captain* Halſted to ———

I Beg you will be ſo kind as to deliver the incloſed, and to favour me with the Anſwer by Bearer, *I am, Sir; Yours,*

C. Halſted.

A Letter

D. 9.

A LETTER *from Captain* Halſted *to Lord*——

Taken in the Lord Biſhop of Rocheſter's *Lodgings.*

My LORD,

YOUR Lordſhip having a fixed Day for Company, I dare not come on any other Day, nor on that, without your Lordſhip's Licence. I beg the favour to know your Opinion, and ſhall move as you command. I beg leave to let you know that I go into *Oxfordſhire Saturday* Morning, and to ſubſcribe my ſelf,

My Lord,

Your Lordſhip's Obedient Servant,
C. Halſted.

Greenwich, Wedneſday
4 a Clock.

D. 10.

April 20. 1722.

A LETTER *from* T. Jones *to Mr.* Chivers.

SIR,

I Ought to acknowledge in Form the ſeveral Papers I have ſucceſſively received from you, if I were capable at preſent of doing any thing regularly; but indeed I am not, as *Hatfield* well knows, and why I am not; ſome Time muſt paſs before I am any way capable of Buſineſs; in the mean time you are in the right to preſs the Gentlemen concern'd by all manner of Ways you can think of, to furniſh what by being hitherto not ſupplied, has render'd the Thing impracticable. They were deſirous of having that Matter entirely in their own Management, and I not unwilling that they ſhould have it, being always diffident of Succeſs on my Part upon Interpoſitions of that kind, and therefore it gave me no Concern to be ſo freely excuſed from any Share (as I was for a great while) in that Trouble; at laſt indeed, when the Point was found upon Trial to be more difficult than they expected, I was preſſed to undertake the Matter; but ſo late, that I did not think it reaſonable for me then to interpoſe, nor can I yet undertake any thing of that kind, it being what (ſince ſome former Miſmanagement wherein I was deeply concern'd) I have conſtantly declined, hoping that I might not be altogether unuſeful to the Service if I went on to promote it in my own, that is, in another way. I ſtill hope ſo, and that a little Time, which muſt be employed in doing nothing but ſoliciting Supplies, will give me room for entering into Meaſures that may be ſomewhat more ſignificant than thoſe formerly taken; this I ſhall endeavour, being at preſent perfectly tired by the diſtracting Meaſures which have been taken from ſeveral Quarters by Perſons no ways equal to the Work, and at the ſame time not agreeing among themſelves. This is all I can ſay at preſent, but that I am with the ſame entire Reſpect and Fidelity I ever was,

Sir, Your moſt, &c.

T. Jones.

I have communicated the Copies of Mr. *Manfield*'s and *Jacob*'s Letters, which (beſides the G——— whereof they had a Copy) were the only ones of thoſe tranſmitted that I was directed or indeed thought proper ſo to do; tho' I have for ſome time thought that nothing of Importance ſhould be truſted to the Poſt, and am reſolv'd my ſelf not to ſend that way, yet the Death of Lord *Sunderland* makes ſuch a Caution more indiſpenſably neceſſary, for you may depend upon't, that thoſe in Power here will now enter into Meaſures of more Severity and Strictneſs, and employ all their Diligence as well as Power on ſuch Occaſions.

A LET-

D. 11.

April 20. 1720.

A LETTER *from* T. Illington *to Mr.* Muſgrave.

Under a Cover of Mr. Gordon *the Son Banker at* Boulogne.

SIR,

I Received from Mr. *Hatfield* (after a long Intermiſſion of ſuch Favours) a Letter which was very welcome to me; I have alſo conſidered carefully what he had to offer to me in particular, and entirely agree with what is propoſed; but my preſent bad Circumſtances (of which he has already informed you) will not ſuffer me to be active ſoon, or even to ſet forward the Affairs entruſted with me in ſo ſpeedy a manner as I could wiſh. The beſt is, that as I cannot act openly, ſo neither is there, I think, any immediate Need of it, ſome Time being requiſite towards ripening Matters, in order to fix the C————'d, which if haſtily begun, may be attended with Suſpicions and other Inconveniencies; but you may depend upon it, that the————s committed to my Care, ſhall be forwarded in due Time to the Perſons concerned, as alſo all ſuch other ————s as I judge (and at the Time I judge) they will beſt promote the Service. What is to be wiſhed for, is, that the Perſon whom I am to act with would come to Town, and his doing ſo may be facilitated better from your Side, than by any Thing that can be done here. By that Time he comes I hope I ſhall be able to take my Part with him. I add no more now (being very unfit to ſay even thus much) but that I am with entire Reſpect and Confidence, *Sir, &c.*

T. Illington.

D. 12.

April 29th 1722.

A LETTER *to Mr.* Jackſon, *under the Cover of Mr.* Gordon le Fils Banquier à Boulogne ſur mer.

SIR,

I Am ſorry to find by yours which *Hatfield* brought, that you know our Circumſtances on this Side ſo well, becauſe that Knowledge does not, I apprehend, give you any advantageous Opinion of us: However, let that be as it will, it is not fit you ſhould be deceived, and rely on more than will be made good to you: If you gueſſed at my right Mind, I dare ſay it was agreeable to your own, and that you could not but ſee through the Forwardneſs of all thoſe unſupported pretending People. Notwithſtanding this Opportunity is elapſed, I agree with you another may offer before the end of the Year, though not perhaps every Way ſo favourable; however, it became me to ſpeak ſtrongly on that Head, eſpecially at the Time when the———— was drawn, which was long before it was tranſmitted; for it was kept back a great while, in Hopes that Deeds might have accompanied Words, and ſent at laſt rather to juſtify the Writer in Reſpect to that Part he had undertaken, than to puſh on any Deſign——in ſo unprovided a Condition. I find I was not miſtaken, and am glad I was not ſo, though every Word of that———paſſed the View and Approbation of the Perſons concerned, but they were to be, and ſhall always be by me treated tenderly, though nothing ſhall engage me to enter deep with them for the future. I had taken this Reſolution before *Hatfield*'s Return, and am pleaſed to find that you concur with me in Opinion; as ſoon as God reſtores me to my Health, and ſome other melancholy Circumſtances are blown over, which will be as ſoon as there is any Occaſion for me, I will not be idle; in the mean Time give me leave to withdraw my ſelf ſeemingly from any Engagement of this Kind; I ſhall return to it, I doubt not, with more Ability to promote the Work; not that I will decline any proper Occaſions that may offer themſelves, to converſe freely with the Men, and in the manner I have been uſed to do; for it is fit upon all Accounts I ſhould do ſo, but by little and little that Conſtant Nature. I dictate this in great Pain, and for that Reaſon, and becauſe I am not at preſent in any Readineſs to go further, ſhall add only my faithful Aſſurances, of an entire and unalterable Reſpect for you.

R———.

April 24.
May. 5. 1722.

A LETTER *from* M—— *to Mr.* Hatfield, *enclosed in* Ch. Quitwell's *to* Anthony Saunders *of the* 5th *of* May 1722. *N. S.*

SIR,

I Had yours of the 16th of *April* by last Post, and nothing has pleased me so much a long while as what you tell me of Mr. *Illington*'s Willingness and good Intentions to make up Matters with Mr. *Hacket*, I thinking it both their Interests, as well as for that of Mr. *Farmer*, and it will be a particular Satisfaction to me, to see these two Gentlemen well together. And I do not at all doubt but Mr. *Hacket* will receive the Proposal in the Way he ought, and meet him half way, and come to Town immediately upon it if he be in good Health.

I agree perfectly with Mr. *Illington*, that their making up and being in Concert together should be kept secret for some time, of which *Illington* is the best Judge. It has and shall be so for me, except to Mr. *Cane* and Mr. *Farmer*, who I understand *Illington* agrees should know it, and I have not so much as spoke of it to Mr. *Jodrell*, only as wishing such a Thing would happen.

Mr. *Illington* will soon see how great a Desire Mr. *Farmer* has for its being so, by a Letter *Jodrell* is to write to him, I believe, by this Post, and that *Jodrell* also thinks it ought to be, and wishes it much. By the Time you have this, Mr. *Illington* will, I suppose, have had an Answer from Mr. *Hacket*, and he will know best what is fittest to be said in Answer to *Jodrell*, and also when Mr. *Mansfield* should be acquainted with it, which *Cane* and I are resolved to let him be the Doer of himself.

Pray my Compliments to Mr. *Illington* in the kindest manner, and I hope he has got the Letter I sent you for him the 28th.

The little Dog was sent ten Days ago and ordered to be delivered to you. The Lady and the little one would certainly return the Compliments was sent them, had they known I was to write; but I thought it was better that should not be done than to tell them of my doing so.

I'll be very glad to hear from you sometimes, and I can assure you there is no body who has a juster Esteem of you, nor more your Friend and Servant than I. Adieu.

M——

Will not the Loss of so able a Minister as Lord *Sunderland* be of bad Consequence to the King, and all of us who wish well to the present happy Establishment? I believe 'twill not be easy tho' to find one to replace him.

I am very glad that Mr. *Illington* will be so good to do for the Boy I recommended.

D. 14.

Tuesday 24 *April* / 5 *May* 1722.

EXTRACT *of a* LETTER *from* C. Quitwell *to* Anthony Saunders *Esq*; *at* Will's Coffee-House *near* Covent-Garden, London.

I Have imparted to *Chivers* that Part of your Letter which regards *Illington*'s mysterious one. He will, I presume, let *Hatfield* know how very kindly *Freeman* spoke of him in his last, which with other Matters I refer to himself.

Ch. Quitwell.

D. 15.

April 29.
May 29. 1722.

EXTRACT *of a* LETTER *from* Alexander Gordon *to* James Johnson.

I Was extremely anxious to hear of your safe Arrival, which made me receive your Favours of the 22d of *April* with very great Pleasure.

3

D. 15

The Gentleman to whom you ſent me one incloſed, arrived here *Wedneſday* laſt, and did us the Favour to ſtay till *Friday* Morning; I delivered him what you ſent me, and I hope that by this Time he has reached *Paris*.

D. 16.

April 30.
May 11. 1722.

EXTRACT *of a* LETTER *from* J. H. *to* Howell.

I Saw Mr. *Hore* about an Hour ago, who is moſt impatient to have a more ſatisfactory Account from your Side, and hopes there may be room now to expect it; ſince there was 9. remitted by *Repney*; he will ſoon, as he tells me, ſend you two more, which with the twelve thouſand Arms provided by *Mansfield*'s Relations in —— and which are now ready to be ſent wherever deſigned, and paid for too, will, he hopes, bring Matters to ſome Proſpect of bearing. I ask'd *Hore* if he had good Authority for this laſt Article; he aſſured me that he ſaw a Letter to this purpoſe from the Perſon who has them, and other Neceſſaries of that kind, in his Poſſeſſion, and that you were by this time convinc'd of the Truth of it likewiſe. I wiſh the ſending over his &c. Commiſſions may not do more Hurt than Good, for that Affair is already become no Secret, and may pique ſome Friends, as well as put Ill-Wiſhers upon their Guard. I hear *Mansfield* continues ſtill upon the old String that he can get no Officers.

Mrs. *Jones* died laſt Week, and when the Days of Mourning are over, he will, I hope, be fit for Buſineſs. Pray preſent my Reſpects to Mr. *Muſgrave*, and let him know that I received the Preſent ſent by the young Lady, but in ſuch a bad Condition that I am afraid he will never do well. For he had a Leg broken in his Journey, which is ſtill very bad with him, however I will take all the Care imaginable of him and inform Mr. *Jones* ſoon of it, to whom I know any thing from that Quarter will be very acceptable.

D. 17.

$\frac{1}{12}$ *May* 1722.

EXTRACT *of a* LETTER *from* Ch. Quitwell *to* James Baker.

I AM to return you many Thanks for the Accounts I received by yours of the 23d of *April*; your Friend *Crow* is come ſafe, and delivered the three Books you gave him as directed.

Mr. *Jones* cannot take a better Time to have himſelf fitted with an eaſy Saddle, for we have here a Number of *Sadlers* idle at preſent, who covet to get work at an eaſy rate: I cannot promiſe him it will hold long ſo, becauſe the *French* talk of War, in which Caſe all the *Sadlers* would be ſo buſy that there would be no coming at them.

D. 18.

Without Date, but was writ about 2 May O.S. *from* Paris.

EXTRACT *of a* LETTER *from* J. T. *to* James Baker.

I Hope, my dear Friend, my Letter from *Bologne* got ſafe to you, I therein told you that Mr. *Gordon* gave me the Pacquet which I now tell you I delivered ſafe a *Monday* Morning laſt as directed; the Perſon received me very obligingly, and was much more open to me than I expected. Then and ſince he let me know that he does not yet deſpair of doing his Buſineſs; but as he did not deſcend to Particulars, I did not think it proper to aſk Queſtions; but this he has taken upon him, to excuſe to my *Southern* Friend the Stay I am to make in this Country by his Advice. I endeavour'd to ſee the cautious little Man, but miſs'd of him; to Morrow I ſhall make another Attempt, and afterwards make more Viſits. I was received very kindly by Sir *Patrick*.

EXTRACT

D. 19.

May $\frac{2}{12}$ 1722.

EXTRACT *of a* LETTER *from* Cane *to* James Baker.

I Saw your Acquaintance *Crow* two Days ago, who delivered me a Preſent from my Couſin *Jones*; I am really much concerned for this Lady's ill State of Health; you know my ſincere Love and Eſteem for her, and pray aſſure her of my beſt Reſpects: I Fear much that my own ſmall Concerns can ſcarcely be ſettled to Satisfaction, till ſhe is able to ſolicite in my Favour; and the more, that I ſee no great Harmony between thoſe who promiſed me their Aſſiſtance.

D. 20.

May 7th 1722.

EXTRACT *of a* LETTER *from* G. Hatfield *to* Muſgrave.

SIR,

I Had the Favour of yours, which I communicated to Mr. *Jones*, who is come to Town only for a Day; he deſired me this Morning to make his Compliments to you, and let you know, that he has not as yet been able to take any Meaſures as to Mr. *Hacket*, and believes, that a Line from you or *Farmer* will bring him much ſooner to Town than any Thing, that he *(Jones)* can ſay, without which it will be impracticable for them to do Buſineſs together. His old Partners never viſit him now, which he is very much rejoiced at, eſpecially at this Juncture: He tells me, that he finds *Armſtrong* and his Company very loth to be any Way concerned, having no Opinion of the preſent Hands, and believes you are by this Time pretty much of that Sentiment too; however, that it is ſtill neceſſary to make the moſt of them.

Mrs. *Illington* is in great Tribulation for poor *Harlequin*, who is in a bad Way, having ſlipped his Leg again, before it was thoroughly well, however his Obligations to the Lady are as great as if he had come ſafe, which he deſires you to let her know.

D. 21.

May 7. 1722.

EXTRACT *of a* LETTER *from* J. J. *to* Chivers.

MR. *Illington* is now in Town, and preſents his kind Service to you, but is afraid that he cannot be able to anſwer your Expectations, at leaſt for ſome Time, in which he wiſhes that *Hacket* may come, whoſe Aſſiſtance will be very neceſſary. Whether *Illington* has tried *Armſtrong* and his Friends, I cannot tell; but I heard him ſay, that they are very cold in the Matter, which proceeds chiefly from the little Opinion they have of the preſent Proceedings; he is glad to hear that you received his Letters by *Crow*, and wiſhes his next may be more to your Satisfaction.

D. 22.

May $\frac{2}{22}$ 1722.

EXTRACT *of a* LETTER *from* Ch. Quitwell *to* James Baker.

YOurs of the 30th of *April*, which ſhould come by the laſt Poſt, is come to Hand but this Day. Mr. *Cane* has ſeen the Particulars you give in reference to Mr. *Hore*; if this Poſt has not brought an Addition of three to ſix, formerly come from *Repney*, the Affair ſtands in the ſame Point, which will be cleared in an Hour hence: You had in a former Letter of mine all that can be ſaid on this Head, by which it is eaſy for Mrs. *Jones* to ſee what is ſtill wanting, for the Purchaſe ſhe intends to make.

Mrs. *Chivers* gives you her kind Service, and prays you will condole in her Name on the Death of Mrs. *Illington*.

EXTRACT

D. 23.

May 10. 1722.

EXTRACT *of a* LETTER *from* J. Hatfield *to* Howel.

'TIS ſaid the Miniſtry would have the King put off his Journey this Summer, but that he has abſolutely refuſed it, and intends to ſet out early in the next Month, and by that Time I believe the preſent Hurry will be all over; if you can then compaſs Barrels enough, the ſooner the Wine comes, I believe, the better. *Jones* promiſes to be a good Cuſtomer; but as he intends to go Shares with *Hacket*, I am afraid we ſhall not get much Good of him till the latter comes to Town.

Illington is gone to the Country, and ſent me Word that he would be in Town on *Tueſday* Night, when he has deſired to ſee me at a particular Hour, by which I conclude it may be about Buſineſs: I hope *Hacket* and he will give you the finiſhing Stroke.

Pray tell *Glan*, that when I ſee *Jones* next, I hope to know what can be done for the Boy at *Eaton*, and give him and all other Friends my very humble Service. I am to ſup this Night with your Friend *Trotter*, who is much yours.

D. 24.

May $\frac{11}{22}$ 1722.

A LETTER *from* Jo. Motfield *to Mr.* Illington; *incloſed in* Quitwells *of* May 27.

This Letter is an Anſwer to Illington's *of the* 30th *of* April, *as directed to* Muſgrave, *therefore* Muſgrave *and* Motfield *are the ſame Perſons.*

IT is ſome Days ſince I had the Satisfaction of yours of the 20th your *Stile of laſt* Month. I did not expect ſo ſoon after that, to have heard of a Loſs you have had ſince, for which I condole with you, and nothing which concerns you ſo near can fail touching me, as in Friendſhip it ought. It is tho' becoming us, as it is our Duty, to ſubmit with Reſignation to what the juſt and great God thinks fit to order for us in this vain and tranſitory World; but you know ſuch Things ſo much better than I, that I will not trouble you with ſaying any more upon it.

I would fain hope that your own Diſtemper will ſoon give you Eaſe, and I pray God it may be ſo, for your own Comfort, and the Good of thoſe you favour with your Friendſhip.

I will not at this Time trouble you with ſaying any Thing on what you wrote me, only you may be ſure that it is a very great Pleaſure to find you of the ſame Sentiments with me as to our old Friend and Acquaintance, who I hope you will endeavour without Delay to bring from his Retirements.

I have no other Canal that I care to write to him by than that which I uſed laſt; and there has been a Letter for him here for ſome Time paſt, which muſt go by the ſame, when there is an Opportunity; but I heartily wiſh that you may not wait ſending to him for any Thing from hence.

I'll long with Impatience to hear of your Recovery, and I am with all Affection and Truth,

Sir,

Your moſt obedient and moſt humble Servant,

Jo. Motfield.

D. 25.

May 14. 1722.

EXTRACT *of a* LETTER *from* G. H. *to* Howell.

I Received yours of the 20th, with the encloſed for *Jones* and *Jemiſon*, which I will deliver; the former is ſtill in the Country, but has ſent me Word, that he will be in Town to morrow.

D. 26.

May $\frac{29}{30}$th 1722.

EXTRACT *of a* LETTER *from*——— *to* James Baker.

PRay aſſure Mr. *Jones* of my beſt Reſpects. I'm aſſured by good Hands that Mr. *Hacket* and he are the moſt able to adjuſt my particular Concerns, and don't Queſtion their good Diſpoſitions to do me what Service they can, and doing it timely will be a double Merit.

A Letter

D. 27.

June 18. 1722.

A LETTER *from* Ch. Chitwell *to Mr.* Geo. Williams *at Mrs.* Harben's *over againſt* Somerſet-Houſe.

Dear SIR,

I AM to own and thank you for the Account you ſent me of the 28th *ult.* which a Jant I took into the Countrey hinder'd me to anſwer by laſt Poſt; they came in due time to ſet us right. All our Bankers here were apprehenſive that thoſe Rumors of a Plot, and the Fall of the Stocks, would occaſion not only an Interruption of Commerce, but alſo perhaps compel ſome of our Correſpondents to go aſide. The moſt comfortable Aſſurances you gave of the contrary have been moſt pleaſing to them all, particularly Mr. *Digby*, who having moſt of his Fortune depending that way, is reſolved to be very cautious for the future in his Dealing. I have given part of your Letter to Mr. *Addiſon* and *Conningsby*, it will be very pleaſing to them that you continue ſending by every Poſt a Hint about the Stocks, if your Leiſure can afford it, for we ſhall be very anxious about them here till we hear they come to a ſettled Point, which we believe cannot well be hoped until the Parliament ſits.

Mr. *Digby* is juſt come to Town with me, and prays to be moſt kindly remember'd to his good Friend Mr. *Weſton*, for whom he was in the greateſt Concern, on account of a Story that his Clerk had been laid up for Debt; he hopes your next will put him full at eaſe on this Matter. Our Actions here continue ſtill in ſuch a confuſed way, that we can't diſcover what this Government intends to do about them. Mr. *Digby* will uſe his beſt Endeavours for thoſe whom he is concerned for, tho' theſe *French* ſeem to have but little regard for any Strangers, if they be not compelled to render Juſtice.

I will trouble you no more at preſent. Your Friends of this Side are all well; remember me kindly to thoſe with you, and believe me moſt ſincerely,

My dear Friend,

Yours, &c.

Ch. Quitwell.

D. 28.

Monday June 11. 1722.

EXTRACT *of a* LETTER *to Mr.* Gerrard, *under Mr.* Walter's *Cover at* Paris.

I Have talk'd a good deal to your Couſin ſince his Enlargement, and he tells me, that moſt of the Queſtions asked him were about a little Dog which he got from a Surgeon when laſt in *France*. Lord *Carteret* had a Liſt of 5 or 6 cant Names, as he called them, which were *Illington*, *Jones*, *Cane*, *Howell*, *Quitwell* and *Hacket*, and what your Couſin never heard of before; they would however perſuade him he knew ſome Perſons that were meant by thoſe Names, which he vows to me he never did, and tells me, that whoſoever *Illington* is, he was the Perſon chiefly ſtruck at. I find him not at all ſatisfied with the Behaviour of his Friends. Your old Friend *Rig* indeed offered all that could be expected of the poor Man; but others, in whoſe Power it was to do more, ſhew'd no Concern at all for his Misfortune. 'Tis well he had no Secrets to reveal, ſince ſuch Uſage might provoke a paſſionate Man, and the World is pretty well convinc'd that he had not, ſince no Perſons ſeem'd to be in the leaſt apprehenſive that he could do them any Miſchef.

J. H. owns the Writing of this Letter in his to *Dixwell* of the 18th of *June*.

June 14.

A LETTER *from* G. W. *to Mr.* Ch. Quitwell *at* Paris, *under the Cover of Mr.* Arthur *Banker at* Paris.

Dear SIR,

I Had Yeſterday the Favour of yours, and tho' the Precarioufneſs of Conveyance by Poſt at preſent makes it uncertain whether this will reach you, yet as your Commands are always ſacred with me, I can't but give you my Opinion of the Stocks as you deſire. The Union between the Bank and *South-Sea* is likely to be effected; the former are to be quit of their Contract, and to purchaſe two Millions of the Stock of the latter; to Morrow is the Day for declaring the Terms on which this Purchaſe is made, and the Hopes of it has made *South-Sea* riſe up to 94, and it may perhaps be kept up ſo high for 8 or 10 Days, till the ſhutting of the Books; but I do not either think that it can be ſupported at that Height for any Time, or that the Contract now on foot will be of Service to either of the Companies, as to the Government, and therefore I adviſe all my Friends to part with their Stock before the Books are ſhut. This I think ſtill more reaſonable, by reaſon of the Uncertainty of our Condition, and the pannick Fears of ſome People whilſt the Noiſe of a Plot continues. They have not indeed taken up any body except one Mr. *Johnſon*, and him they have ſet at Liberty, after asking him a parcel of Queſtions that appear ridiculous to the World; and no body elſe being ſo much as ſought after it has confirmed the Citizens in their Notion of its being a Plot only to get Money by the Fall of the Stocks; and the Country of theirs, of its being a Project to get 4 *s.* in the Pound next Year. There have been ſo many ridiculous Pretences about it, which have been varied from time to time, till they end at laſt in one that I think exceeds all the reſt in Abſurdity, *viz.* That the Regent has given in a Liſt of the Conſpirators to our Court here, and they appear all to be of the *Whig* Nobility. 'Tis ſtrange they ſhould encourage Notions that offend the Honour of an Ally abroad, and affect the Credit of their Friends at Home. They have alſo talk'd of ſending a Privy-Seal to order Lord *Lanſdown* home, but after all the Enquiry I can make, I can't find any Truth in this Report. 'Tis indeed an Affair ſo myſterious, that it is hard to gueſs at the Truth of it. The Court ſeem perſuaded 'tis a real Plot, and yet I can't find they know any thing of the Particulars of it: They pretend to gueſs at the Perſons, and yet have no Evidence againſt 'em; they are indeed on the Queſt after ſuch Evidence, and if the Conſpiracy be as they repreſent it, and ſuch Numbers of Perſons concern'd in it as is ſaid, it is next to an Impoſſibilty to ſuppoſe that in time they may not find ſome Proof, ſince they have every thing in their Power to apply to the Fears, and tempt the Hopes of the Conſpirators. Beſides, I think it neceſſary for the new Miniſtry to find Evidence at any rate, for without it all the World will conclude it a Sham, and it may end in their Ruin; whereas if they prove it, it will be the only way to eſtabliſh themſelves, and will work the Confuſion of their Enemies as much as the *Preſton* Affair did ſome Years ago. How it may prove in the Event is hard to gueſs, but at preſent they ſeem much in the dark, and ſo you may conclude me to be too.

Our News Papers ſpeak of a great many Villanies practiſed by the Clerks concerned in giving Certificates of Liquidation, I wiſh this may not put off the ſettling that Affair of the *Miſſiſippi* Actions, which, conſidering the Impatience and Intereſt of the Numbers of People concerned in it, ſhould be deferred as little as poſſible. Were a Method but formed and adhered to, and executed, I can't but think it might end ſatisfactorily enough, and certainly more to the Advantage and Liking of People than the preſent Delay; but unleſs Schemes are adhered to as well as formed, and purſued as ſteadily as they are projected judiciouſly, one can't expect to get out of the uncertain Condition thoſe Affairs ſeem as yet to be in.

We are here likely to have our Army kept on foot, Mr. *W.* ſaying we ſhall have ſuch Employment every Year as we have now; one Regiment is landed from *Ireland*, and is gone to the Camp at *Salisbury*, beſides which there are Camps at *Andover*, and *Marlborough*, and *Hounſlow-Heath*, but ſmall ones; our great one, which is more than all the reſt, is as yet in *Hyde-Park*, tho' it is talk'd that K. *G.* will remove to *Hampton-Court*, and that then the Camp will be divided, and the greateſt part of the Guards march to *Hounſlow*. Theſe Camps are for the Eaſe of the People in the Towns where the Soldiers were quartered, but by no Means to the Guſt or Conveniency of the Soldiery, who are apt enough to cabal in them; ſo that I can't ſee the Policy of the Thing, when the Smallneſs of the Numbers encamped gives no Terror to thoſe who

live

live about them, and the reſt of the Kingdom is entirely free from ſo much as a Sight of them.

Mr. *Weſton* is in the Country: I ſaw him two Days ago; he is perfectly well, and as eaſy in all his Affairs as any Man alive; he is very much Mr. *Digby*'s humble Servant, as well as,

Dear Sir,

Your very obliged and affectionate Servant,

G. W.

You ſeem to think the ſitting of the Parliament may help our Stocks and ſettle them, but I am of Opinion entirely they will be at their Height before, and the ſooner a Man ſecures what he has in them, it will ſucceed the better to him; and if I began to ſecure them, I would not do it as to one Fund only, but in every one where I had any Concern; for all the Stocks are upon one Bottom, and riſe as well as ſink at the ſame Time; ſo that if a Man did get out of 'em he would do it to purpoſe, and make the moſt of what he has in 'em all at once.

D. 30.

Monday June 18. 1722.

EXTRACT *of a* LETTER *from* J. H. *to Mr.* Dixwell, *under the Cover of Mr.* Walter *at* Paris.

MY own Situation I believe you are no Stranger to, ſince ſome Friends have given you an Account of it; the Occaſion of what happened I will lay at no body's Door in particular, tho' your old Friend *Rig* ſeems to believe it has proceeded rather from ſome pretended Friend than any real Enemy; and as his Conjecture lies on this Side, you may eaſily gueſs the Point it tends to; 'tis true there are ſome Reaſons for thinking as he does.——— I muſt inform you, that it is abſolutely neceſſary to make no more Uſe of your preſent Account-Book, ſince thoſe who have got Part, may by the ſame Method have got the whole, and that it will be highly improper for me to meddle in any Buſineſs, at leaſt for ſome Time; all that lies in my Power will be only to deliver your Couſin *Rig* any Goods that you can ſend by private Hands; he is determined to receive them no other Way; and indeed I cannot ſay he is in the wrong: How far this late Affair may affect him I cannot tell, and if your Buſineſs can be conveyed any other Way to him, you cannot do me a greater Favour; for to tell you the Truth, it is againſt my Opinion and Inclination to have any farther dealing that Way. I am ſure you will not think that this proceeds either from any Change of Opinion or Reſentment of the little Concern that has been ſhewn for me by them, but from a Conviction, that without changing both the Method and People, it will be impoſſible to make any Thing of it.

Mr. *Il. Rig* and *Rep.* are I hear in the Country———

J. H.

The ſooner you order a new Book to be made and ſent over, I believe the better.

EXTRACT

D. 31.

Wedneſday 20 *June* / 1 *July* 1722.

EXTRACT *of a* LETTER *to Mr.* Ireton, *under Mr.* Andrew's *Cover at the Dog and Duck in St.* James's-Street, London.

MY kind Service to Friends in your Parts, and moſt particularly to my Couſin *Rigg*, who is a Lady I honour and eſteem more than I can expreſs.

Not ſigned, but was in the Hand writing of the Perſon who often ſigns *Howell* and *Quitwell*.

D. 32.

July 4

EXTRACT *of a* LETTER *from* G. W. *to Mr.* Digby, *under the Cover of Mr.* Walter *at* Paris.

SIR,

MR. *Finch* came up to Town three Days ago, but Mr. *Maſon* being abſent in the Country, he has not yet been able to talk with him about the M. S. S. he will ſtay two Days more, and I hope Mr. *Maſon* may come in that Time, becauſe Mr. *Finch* is obliged to take a Journey to viſit ſome Friends of his in the Country, which will take him up about a Month, tho' he has given me Directions how to ſend to him, and will come up immediately if he can be any ways ſerviceable in procuring the M. S. S. you want. Mr. *Yelverton* I told you in my laſt could help you in that Particular, and I am ſatisfy'd would be very glad to ſerve you in any Thing; and if Mr. *Maſon* ſpoke to him about the M. S. S, he would, I doubt not, give him Aſſurances of it, and ſhew his Regard to you by his Service.

Mr. *Walpole*, now he has carried his Point in favour of the Bank, and drawn in the S. Sea Company to part with 200,000 *l* a Year of their beſt Fund, which is payable weekly out of the Exchequer, only to ſet up a rival Company, and aggrandize it by their own Loſs, ſeems in the height of his Credit at Court, tho' the dark Affair of the Plot has not at all advanced it in the Country; and what he will have to lay before the Parliament in relation to it (ſince Coll. *Areskin* is releaſed, and no body elſe is talked of to be taken up) is paſt the Wit of Man to imagine.

I ſaw Mrs. *Weſton* yeſterday; ſhe never was better in her Life than now; ſhe gives her humble Service to you; I ſhall be able next Week to write to you more fully about the M. S. S. and in the mean Time I am,

Sir,

Your very obedient humble Servant,

G. M.

D. 33.

July 12, 1722.

EXTRACT *of a* LETTER *from* G. W. *to Mr.* Querry, *under Mr.* Daniel Arthur's *Cover*.

THE Ducheſs of *Marlborough*, who will never be ſatisfied with any Court where ſhe does not govern abſolutely, is highly diſcontented with this. She has even required the young Lord *Sund*——— not to go near it, nor have any Thing to do with it: He has been greatly courted, offered the Poſt of a Lord of the Bedchamber, *&c.* but has refuſed all, thinking he ſhall get more by obliging the D———ſs, who I am aſſured is left worth two Millions of Money; and by ſome Offers ſhe has made to People in Diſtreſs, ſeems inclined in the latter part of her Life (when others generally grow covetous) to be very generous. I have only wrote this, that you may not from my Silence conclude me out of the World, or to be any Thing but, *Dear Sir*,

Your humble Servant,

G. W.

Saturday, 25th July 1722.

From Digby *to Mr.* George Williams, *at Mrs.* Herbin's *over-againſt* Somerſet-Houſe, London.

SIR,

THIS is to return you many Thanks for yours of the 4th Inſtant, and the hopes you give me of the riſing of our Stocks to a reaſonable Height. You know moſt of my Fortune lies that way; therefore you cannot oblige me more than in giving me ſuch Lights as often as you are at leiſure.

I write a few Lines to Mrs. *Weſton* on that Subject, judging her Advice to be moſt ſolid on theſe Matters; I therefore deſire the favour of you to wait of her with the inclоſed Note, which I hope will not be unacceptable to her, from a Perſon moſt devoted, and who longs to have an Account of her Welfare.—— I am this long time without a Word from your Friend *J*——, which gives me ſome Pain, becauſe of three or four Bills he ſhould have receiv'd from Mr. *Andrews*, and has own'd neither of them; pleaſe to give him my kind Service, and tell him this Particular. I have nothing to trouble you with about the *Miſſiſippi*; on which I don't find theſe People here diſpoſed to do us any Juſtice yet awhile, tho Sir *Luke Schaub* does all he can to that end. All remains much in the dark as to publick News, ſo will not trouble you with any. Believe me moſt ſincerely,

SIR,

Your very obedient humble Servant,

Digby.

D: 35.

Saturday, July 25. 2722.

To Mrs. Weſton, *incloſed to Mr.* George Williams, *at Mrs.* Herbin's *over-againſt* Somerſet-Houſe London.

Dear Madam,

I Cannot, on any reaſonable Grounds, complain of your Silence, tho long it appears; becauſe I am informed of the Situation your Health and the Concerns of your Family are in, by Bankrupts and Law-Suits. Permit me, however, to fulfil a Part of my Duty in preſenting you my beſt Reſpects, and unalterable Attachment to you and yours. I wiſh this may find you ſo far recover'd from paſt Miſchances, as that you may be once more in a humour of affording me a comfortable Line. I have all the Stock I bought lying by; and I intend it ſhall remain ſo until you adviſe me of the proper time to diſpoſe of it, being fully convinc'd that in the ſlippery Age we live in, I cannot confide to any better than you. I hear many ſay, that our Stocks will infallibly riſe again to a good Height, by Mr. *Walpole*'s wiſe and able Management; from whence I ſhould hope not to be ſo much a Loſer in reſerving mine ſtill. My Lights at this Diſtance can be but very imperfect; therefore, Dear Madam, I will earneſtly pray your Direction, when you find leiſure to grant me this favour, as alſo that of forgiving this Trouble, for which I offer amends in any manner I can be of ſervice to you.

D. 35.

The few Acquaintances of yours I converſe with in theſe Parts are well, and rely, as I do, on your friendly Advice, in a moſt particular manner, about their Concerns in the Funds. They deſire you'll be pleaſed to admit Mr. *Skinner* to receive your Commands, who is directed to call upon you, and explain ſome Particulars too tedious for a Letter. He ſeems to be very ready at Buſineſs, and will obey your Orders punctually. I am, with the greateſt Eſteem and Sincerity,

Dear Madam,

Your moſt humble, and moſt obedient Servant,

Digby.

D. 36.

July 16.

To Mr. Digby, *under the Cover of Mr.* Arthur *at* Paris.

SIR,

I Have ſeen Mr. *Maſſon*, and had ſome Diſcourſe with him about the M.S.S. you deſire. I acquainted him with Mr. *Finche's* Opinion of them, and his Readineſs to give all the Aſſiſtance he could for the procuring of them, and his leaving Directions for me to ſend for him, if Mr. *Maſſon* thought it neceſſary. But Mr. *Maſſon* was of opinion that he ſhould not be ſent for, becauſe it would ſhew too much Eagerneſs (which he did not think proper) and too much Hurry about the Purchaſe, and ſo make it come at a dearer Rate than otherwiſe might be had. I own I am apprehenſive that ſuch a Standing off and Delay, may expoſe them to the danger of being ſnapp'd up, in a Country ſo curious after ſuch things as ours is. This is a Conſequence Mr. *Weſton* is very apprehenſive of, tho he agrees in the main with Mr. *Maſſon's* Opinion, with this difference, however, that Mr. *Maſſon* does not think Mr. *E.* underſtands the value of the M.S.S. whereas Mr. *Weſton* thinks him fully acquainted with the Value and Nature of every particular one. Mr. *Maſſon*, however, deſires Mr. *Finch* to ſee him in his return home, which will be about a Fortnight hence; and then I ſhall communicate to you their Sentiments and Reſolution.

The Town is very empty, ſo that we have little News to divert us; we are ſtill gratified, however, with the Neighbourhood of a Camp: and tho ſome are poſitive it will break up the beginning of *Auguſt*, 'tis as confidently aſſerted that Forrage is contracted for till the beginning of *September* for its Uſe. This looks as if the Apprehenſions of the Government are not yet over; and their ordering General *Sabine* for *Scotland*, looks as if they had ſome from that Quarter, where, I have been told, they never had any before. They ſtill talk at Court of laying this Matter before the Parliament, and of publiſhing Letters and Informations about it, before the Meeting: but this I hardly think they will, unleſs they have ſome more particular Accounts and ſatisfactory Evidence than we have yet heard of; and yet they ſpeak of it with Confidence. I deſire my humble Service may be acceptable to *M. Lequien*, and all Friends; and am

Your very obedient Servant,

G. W

Monday, July 16th 1722.

To Mrs. Digby, *under a Blank Cover to Mr.* Arthur *Banquier at* Paris.

Extract.

COO. *Skinner* came laſt Night to Town; I was to wait upon her this Morning, but ſhe was gone out: to Morrow I hope to have better luck; for I long to know how our Friends in the Country do, and how the fall of Stocks affect them.

D. St. John.

D. 38.

July 28th 1722

To Mr. George Williams *at Mrs.* Herbin's *over-againſt* Somerſet-Houſe, London.

Dear SIR,

I Received with much Pleaſure yours of the 12th, as I do all thoſe which come from you; and do not miſs ſharing with Friends the ſatisfactory Accounts you give me about the Riſe of our Stocks. The hint you give me about a certain Lady is very pleaſing; and I ſhould hope if rightly handled ſhe might be induced to give the Piece, that has and will always keep back your Friend *Addiſon*'s Law-ſuit, which is ſaid to be in her Power; but you know Ladies are capricious, if not managed by proper Perſons and much Dexterity. None can judge that matter better than Mrs. *Weſton*, whoſe Health is a ſingular Satisfaction to all Friends; I ſhould think myſelf highly honour'd with her Commands, and happy if I could hit on the Books moſt ſuitable to her Fancy.

In return of the News you ſent me, they have it current here that the *Turkiſh* Fleet ſteer'd directly on the Iſle of *Maltha*; but ſome of our Politicians cannot reconcile this Project with the Departure of the *Spaniſh* Squadron that's gone towards thoſe Seas, againſt which join'd to the other *Italian* Squadrons the *Turks* could not hope to proſper. From this and a preſumed Intelligence between the *Ottoman* and the Regent very odd Inferences are drawn. Whatever the matter be, there is a Whiſper paſſes of ſome ſtrange Event expected ſuddenly by theſe *French*, whoſe Temper it is to grow very uneaſy when long at reſt; I am even told ſome Sparkles of the kind have blazed at Court between Perſons of the firſt Degree. God forbid our Friend the Cardinal ſhould come to any harm by it; but he has not much to fear, having our Miniſtry and the *Italian* Faction that rules in *Spain* to ſupport him.

I muſt tell you that Mr. *Digby* being aware of ſome Perquiſitions made by Lord *Londonderry* ſince here, has reſolved to reſign his Concerns to Mrs. *Chirwood* and *Du-pleſſis*, who ſet up at Mr. *Hues* Banker *Rue de la Monnoye*. Mr. *Digby* prays me to advertiſe you and all his Correſpondents that they draw upon him no more on any account, but on thoſe he reſigns to, who are honeſt and ſecure Dealers.——I ſhall be alſo found at Mr. *Hues* by ſuch as pleaſe to employ me; toward which, I hope your good Word will not be wanting.

I have ſeen a late Letter from your Friend *Coſgrave*, by which he aſſures, that Mr. *Fleetwood* was proof againſt all the ill Offices which were attempted on his Account. He takes Minerals that are in his Neighbourhood by way of Precaution. I'm charged to ſend him the Accounts you'l give me about the Stocks, in which he is deeply concern'd. Mr. *Addiſon* and Family are alſo very well; I will trouble you no more at preſent; but wait your next, hoping Mr. *Maſon* has clear'd all Difficulties about

the

the Manuſcripts you beſpoke. Mrs. *Chitwood* and *Dupleſſis* give you their kind Service, and expect you will favour them with your Correſpondence. I am as always,

Dear SIR,

Yours to Command,

Ch. Querry.

D. 39.

July $\frac{19}{29}$th 1722.

From —— *to* Maiſonneuve.

Extract.

RIG is in the Country: I wiſh he may perform his Promiſes, which I believe he may do if he pleaſes.

D. 40.

July 26th 1722.

To Mr. John Drake *at* Paris, *under a Blank Cover to Mr.* Hughes *Banquier.*

SIR,

I WAS favour'd with yours on my Return from the Country, and am obliged to you for your kind Wiſhes; I beg leave to return the ſame heartily to you.

I have been with your Correſpondent to whom the Letter of Credit was ſent, who has partly anſwered my Demands, and promiſes to comply in all Points with your Directions. I muſt now give you account of the Product that is, and may be hoped for concerning the Publick Funds; which tho in a deſperate way, yet by the wiſe Management of the preſent Government, may I hope be retrieved, elſe I ſhall be as great a Loſer as moſt People.

It is certain we are betrayed by one entirely in the Secret, who has given ſuch Lights into all our Affairs, that the moſt minute Circumſtances are perfectly found out. I dare not preſume to fix poſitively, but muſt deſire as I am requeſted, that you would be cautious, even with thoſe you actually converſe with in the Place you are in, till ſuch time we can have ſtronger Proofs, which I doubt not I ſhall be able to give you ſoon; I except no one whatſoever: the Reaſons are great, and you will judge ſo on hearing them all.

I hope I have partly prevailed with the Correſpondent to undertake what he had firmly reſolved againſt, which is the procuring Arrack, which cannot fail ſucceeding by that Channel. The manner of my Writing is ſo imperfect, that I know not whether you will underſtand it, as I cannot what is meant by yours; but it is as you cypher.

Mr. *South* is out of Town, but —— *Moreton* I have ſeen; I expect daily Mr. *Finch* and Mr. *Reid*, and ſhall talk with them; the former much in Repute with your Correſpondent, to whom you ſent the Letter of Credit. I ſhall not fail from time to time to give you an Account of the Fall and Riſe of the Stocks, and ſhall act according

according as I receive your Directions; you may be ſure to the beſt of my Abilities, as no one is readier to be of ſervice to you than,

Dear SIR,

Your moſt devoted,

faithful, humble Servant,

H. Stanley.

D. 41.

July 26th 1722.

From —— *to* Maiſonneuve.

Extract.

RIG and *Skin* have been lately together, but the Reſult of their meeting I know nothing of, for the firſt went the next Morning to the Country; he ſent for me before they met, to know if *Skin* ſtood well with Mr. *Chitwood* and his Partners, that he might behave accordingly to him; to which I told him that I never heard any thing to the contrary. *Rig* ſeems ſtill to promiſe his Aſſiſtance if he can get the better of his Suſpicions, which he has fixed ſomewhere, tho I can't find out the Place; but ſuppoſe you may hear ſomething of it, when you ſee Mr. *Skin*, to whom it's probable he may communicate his Sentiments that way.

D. 42.

July 30.

To Mr. Dupleſſis *chez Mr.* Hues *Banquier Rue de la Monnoye,* Paris.

Dear SIR,

I HAVE the Favour of yours of the 28th Inſtant, and ſhall obſerve your Directions in it, and draw upon the Bankers you recommend me to as often as I have occaſion; I had the Honour of introducing Mr. *Stanley* to Mr. *Weſt*. who received him in the beſt manner, and aſſured him of his readineſs to ſerve him in what he could; Mr. *St*. was much pleaſed with him, but did not engage him to ſollicit in his Arrack Affair, which yet is of the greateſt Conſequence to him, and Mr. *W*. is moſt capable of ſerving him in, becauſe in the Eſteem of all the Commiſſioners in whoſe Power it is to relieve him in the Caſe. And as Mr. *W*. would do it effectually if engaged in it; ſo Mr. *Stanley* deſires me to beg the Favour of you to requeſt the Favour of Mr. *W*. in a Letter from you to Mr. *Stanley*, which he is ſure would fortify the good Inclinations Mr. *W*. has already to ſerve him, and effectually engage him in the Thing.

I have nothing of News to entertain you with from hence, but that we ſeem likely to have ſomewhat made of the Plot; for on *Saturday* Morning one Mr. *Dennis Kelley* was taken up at going out of his Houſe to embark for *France*. His Lady, Lady *Bellew*, and his Daughters, and all his Family, Man, Woman and Child, are now in cloſe Confinement; the Ship alſo was ſearch'd, the Maſter of it, all the Paſſengers of it, and taken into Cuſtody; among the laſt one *Burgh* was taken, an Attorney from *Dublin*; upon whom a Letter to one *Glaſgow* in *Paris* was found, from one *Fr. Glaſgow*

Glaſgow of *Dublin*, whither a Meſſenger is diſpatch'd to take him. I do not hear that there were any Letters found upon any body elſe, but only ſome malignant Ballads and Papers. This has again raiſed our Expectations of learning a little more of the Plot, which many People of ſenſe had begun to doubt of. The Poſt is near ſhutting up, and I have only time to aſſure you that I am,

Your very obedient

Servant,

G. W.

D. 43.

Wedneſday, Auguſt 12th 1722.

To Mr. George Williams, *at Mrs.* Herbin's *over-againſt* Somerſet-Houſe, London.

SIR,

I WAS much pleaſed to receive Yours by the laſt Poſt, tho without Date, finding my Complaint was not unacceptable to Mrs. *Weſton*, and that Couſin *Stanley* and ſhe had been together. I hope the latter, when at leiſure, will be ſo good as to let me know Mrs. *Weſton*'s Advice, whereof I ſhall always make a moſt particular Caſe. I am alſo of opinion, you could not apply to a more ſufficient Judge about the Concern you have with Mrs. *Finch*; becauſe I am ſatisfied Mr. *Andrews* will be referred entirely by her Thoughts on that Subject, to which he is a Stranger, as to the Value of the Purchaſe, as well as I; but rely, without further Examination, on Mrs. *Weſton* and your Friendſhip and Judgment in that regard.

I have prevented moſt of Mr. *Digby*'s Correſpondents not to draw any more in his Name, becauſe he had, on valuable Conſiderations, reſigned his Concerns to my Aſſociate, Monſieur *Depleſſis* and me, living at Mr. *Hughes Banquier Rue de la Monnoye*. In return of the News you ſent me, I will tell you a ſurprizing Alteration whichhappen'd in this Court two Days ago; the old Mareſchal *de Villeroy*, Governor to the young King, has been ſuddenly commanded away with a Guard, and ſent to Baniſhment; but the Place or Reaſons are not yet known to the Publick, tho many Diſcourſes are held here upon it; the Truth whereof I will refer to time. This, with my moſt kind Reſpects to Mrs. *Weſton*, when next you ſee her, is all I have to trouble you with at preſent. I am moſt ſincerely,

SIR,

Your very obedient

humble Servant.

Chitwood.

D. 44.

Tueſday, $\frac{17}{28}$ Auguſt 1722.

To Mrs. Ireton, at *Mr.* Andrews's *at the Dog and Duck in St.* James's-Street, London.

Extract.

MRS. *Skinner* is in *Paris*, but has not ſeen as yet Mrs. *Chitwood*; the latter has been much given of late to a retired Country Life, and reſolved to have as little Dealing as ſhe can, with Perſons that may not be agreeable to her Relations; tho ſhe cannot take upon her to find fault with them otherwiſe.

C. Querry.

D. 45.

Thurſday Auguſt 30th 1722.

A Monſieur Dupleſſis *under Cover to Mr.* Hughes *Banquier à* Paris.

SIR,

IN return to your *Paris* Occurrences, I know you expect that I ſhould entertain you with Ours, and eſpecially with the Particulars of the Biſhop of *Rocheſter*'s Seizure, which makes a very great Noiſe. Two Officers, the Under-Secretary and a Meſſenger went laſt *Friday* about two a-Clock in the Afternoon to the Biſhop's Houſe at *Weſtminſter*, where he then was, with Orders to bring him and his Papers before the Council. He happened to be in his Night-Gown when they came in, and being made acquainted with their Buſineſs, he deſired time to dreſs himſelf; in the mean time his Secretary came in, and the Officers, *&c.* went to ſearch for his Papers; in the Sealing of which, the Meſſenger brought a Paper which he pretended to have found in his Cloſe-Stool, and deſired it might be ſealed up with the reſt. His Lordſhip obſerving it, and believing it to be a forged one of his own, deſired the Officers not to do it, and to bear witneſs, that that Paper was not caught with him: but notwithſtanding they did it, and tho they behaved themſelves with ſome Reſpect to him, yet they allowed the Meſſenger to treat him with the utmoſt Inſolence; who pulled and hauled him about, and ſaid, if he did not make more haſte, and put on his Shirt, *&c.* that he would carry him away naked as he was: upon which he deſired his Secretary to ſee his Papers all ſealed up, and went himſelf directly to the *Cockpit*, where the Council waited for him. And when they began to ask him ſome Queſtions, I am told, that he repeated our Saviour's Anſwer to the *Jewiſh* Council when he was carried before him, and asked if he was the Chriſt; which you may ſee at length. During his Stay he behaved with the utmoſt Calmneſs, and in about three quarters of an Hour was ſent to the Tower, where he is ſtill kept a cloſe Priſoner. Meſſengers were likewiſe ſent to ſearch his Houſe at *Bromley*, who broke open all Doors in a very indecent manner, and tore all Places, where they thought any Papers cou'd be conceal'd; and in both Places, it ſeems, they found none to their Purpoſe, but the Examination of one *Kelly* before the Council, who was taken up ſome time ago, and written upon the back of it in the Biſhop's Hand; this came from an unknown Hand. This and his Anſwer to a Letter, which Sir *Con. Phipps* wrote to him, deſiring him to be one of the Goſſips to a Grand-Child of his *D.* is the ſum total of what they found. The reaſon of laying any Streſs upon this was, it ſeems Sir *Con.* gave him an account of the

the Company that was to be there; and the Biſhop in his Anſwer made uſe only of the firſt Letters of their Names, and deſir'd him to aſſure them, that he would not fail meeting them; which gave ſuſpicion that it was a treaſonable Meeting, tho the Letter was ſent by the Poſt, and franked by his Lordſhip, but I believe not ſigned. This Step is looked upon to be pretty extraordinary: but the Miniſtry no doubt have good Reaſons for it, tho ſome are ſo malicious as to ſay, that there was a little perſonal Pique in it; for it ſeems the Crown has given a Grant of ſo much a Year to repair *Weſtminſter* Abby, which the Biſhop had the Application of, and 'tis ſaid that he preſſed Mr. *Walpole* often for Money to pay the Workmen; that Mr. *Walpole* return'd him an Anſwer, that he was ſurprized in that Matter, but would ſuch a night be at leiſure, and give him a Hearing. To this his Lordſhip reply'd, that he did not underſtand that Language, and would be buſy that Night, but if he would appoint a Meeting, that he would give him a Hearing: to which Mr. *Walpole* return'd an Anſwer, that he would certainly give him a Meeting the Friday following. And it ſeems he was as good as his Word; but it happened to be at the Cockpit, which gave occaſion to the Biſhop to tell him, that he expected to ſee him that Day, but not in that place. This is all I can that hear of this Matter; he is allowed two Servants to attend him, but no Perſons to ſpeak to him, and bears his Confinement extremely well, and ſays, that he never had his Health better. The other Priſoners are more cloſely confin'd ſince his Commitment, and no hopes of their Enlargement, but are all very hearty and well. 'Tis ſaid a great many more will be taken up, but I hear of no body that keeps out of the way. King *George* is now upon his Progreſs to *Salisbury* and *Portſmouth*. Five Regiments are order'd over from *Ireland* to *Briſtol*, but I don't hear that they are as yet landed: I ſaw a Gentleman that came lately from that Country, who ſays, that one Mr. *Glaſcock* was taken into Cuſtody, upon account of ſome Letters which he wrote to one *Parſon* that is abroad, and at his coming away was in Jail.

You are by this ſatisfied of the Reaſons of my late Silence: pleaſe to accept of my ſincere Reſpects, and pardon this Scrawl, for it is very late, and I have not time to read it over. I am with the greateſt Eſteem,

SIR,

Your moſt obliged Servant.

I. W.

When the Biſhop's Papers were open'd, his Chaplain, who is his Secretary, was ſent for to be preſent, and his Commitment is worded like the reſt, without any Information.

D. 46.

Friday, Sept. $\frac{14}{15}$th 1722.

To Mrs. Ireton, *at Mr.* Andrews, *at the Dog and Duck in St.* James's-Street, London.

Extract.

YOUR Letter of the 30th *Auguſt* came ſafe, and the Particulars you gave of Mr. *Rig*'s Caſe, were very acceptable to Mrs. *Cane*, whoſe Concerns for a true and worthy Friend and Relation cannot be doubted, and a longing Deſire to know her entirely clear of her Diſtemper. You are earneſtly pray'd to continue your friendly Care in informing us of the Variations which happen in it, and the Opinions of the Doctors that attend her. What is become of Mrs. *Thomas*, whom we heard nothing of this long time?

Ch. Querry.

D. 47.

The DEPOSITION *of* John Lawſon, *of* Bromley, *in the County of* Kent, *Baker.*

WHO ſays, that having occaſion to enquire when the Biſhop of *Rocheſter* had been in Town laſt Summer, and taking the opportunity of being in Company on the 19th of this Month with *William Wood*, his Lorſhip's Coachman, as a proper Perſon of whom to make that Enquiry; the ſaid *Wood* read to him out of a Book he kept, That the ſaid Biſhop went from *Weſtminſter* to *Bromley* the 1ſt of *April* laſt; that he came back to Town the 11th of the ſame Month; that he return'd to *Bromley* the next Day; that on the 26th Day of the ſame Month his Lady died; that on the 5th of *May* laſt he came to Town, and on the 10th of the ſame Month went back to *Bromley*; that on the 15th of the ſame Month he return'd to *Weſtminſter*, and was at *Twickenham* the 17th, 18th, and 19th; that the 24th Day of the ſame Month he went to *Bromley*; that having been in Town, he went again into the Country on the 5th of *July* laſt; that the 19th of the ſame Month he came back again to Town; that on the 21ſt of the ſame Month he went back to *Bromley*, where he continued till the 4th of *Auguſt* laſt; then came to Town, went back to *Bromley* the 7th, and return'd to Town the 20th of the ſame Month. The Deponent further ſays, that he was inform'd by *James Day* and *Thomas Farnden*, two other Servants of the ſaid Biſhop, that he had a Fit of the Gout, which laſted all or moſt part of the time between his going to *Bromley* next, before his Lady's Death, and his coming to Town after ſhe was buried; and that the ſaid *Thomas Farnden* alſo told him, this Deponent, that among thoſe who frequented the ſaid Biſhop at *Bromley* laſt Summer, were the Lord *North* and *Grey*, who came very often, the Lord *Bathurſt*, Sir *Conſtantine Phipps*, Mr. *Aldridge* a Clergyman, and Mr. *Wynne* a Counſellor at Law.

Jurat. 5° *die Februarii* 172⅗. John Lawſon.

Coram me

Cha. Delafaye.

D. 48.

The EXAMINATION *of* William Wood, *Coachman to the Lord Biſhop of* Rocheſter.

WHO being asked whether the Biſhop of *Rocheſter* was at *Bromley* in *Kent*, from Thurſday the 12th of *April*, to Saturday the 14th of the ſame Month in the Year 1722, anſwers; That having peruſed certain Memorandums in his Pocket-Book, he does recollect, and does verily believe, that the Biſhop went to *Bromley* the 1ſt of the ſaid Month of *April*; that he came up to his Houſe at *Weſtminſter* the 11th of that Month,

went again to *Bromley* the 12th of that *April*, and continu'd there till the 5th of *May* following. Being asked what Day the Biſhop's Lady died: he anſwers, that ſhe died the 26th of the ſaid Month of *April*, and was buried the 2d of *May*. Being asked whether the Biſhop was ill of the Gout about the time his Lady died; he anſwers, that he was at that time ill of the Gout. Being asked whether the Biſhop came to Town only for a Day, the 6th or 7th of *May*; he ſaith, that the Biſhop came to London the 5th of *May*, and went to *Bromley* the 10th; further ſaith, that the Biſhop came to Town the 15th of *May*, went to *Twickenham* the 17th, and ſtaid there the 18th and 19th: that from *Twickenham* the ſaid Biſhop came to *Weſtminſter*, ſtaid there till the 24th, and then went to *Bromley*, where he thinks the Biſhop ſtaid about three Weeks or a Month. Being asked whether the Biſhop was in Town between the 15th and 26th of *July*, and what Day he went into the Country at that time; he anſwers, that to the beſt of his Remembrance the Biſhop went into the Country the 5th of *July*, came to Town the 19th, and went again to *Bromley* the 21ſt. Being asked whether the Biſhop was in Town the 3d of *July*; he anſwers, that to the beſt of his Remembrance he was then in Town.

Capt. et Jurat. die 26° Februarii 172⅔. William Wood.

Coram

Townſhend.

D. 49.

The further EXAMINATION *of* William Wood.

WHO ſays, that on or about Monday laſt Mr. *Moore*, the Biſhop of *Rocheſter*'s Secretary, ſent for the Examinant to his Houſe, and asked him to let him ſee a few Lines in his Day-Book of Accounts (being the Book out of which the Examinant on the Friday before had dictated the Anſwers to the Queſtions which *John Lawſon* put to him) that the Examinant did deliver the ſaid Book to the ſaid Mr. *Moore*, which the ſaid Mr. *Moore* kept, and refuſed to give back to the Examinant, ſaying, it ſhould be forth coming. The Examinant further ſays, that he does not remember that there was in the ſaid Book any further account of the ſaid Biſhop's Journeys, except one or two, perhaps, beſides thoſe of which he gave an account to *John Lawſon*, as abovemention'd, and alſo in his Examination yeſterday.

Capt. et Jurat. 27° die Februarii 1722. William Wood.

Coram me

Cha. Delafaye.

The EXAMINATION of Thomas Moore M. A. *Chaplain to the Lord Biſhop of* Rocheſter.

WHO being asked whether he did on or about Monday laſt, take or receive from *William Wood*, the ſaid Biſhop's Coachman, his Day Book of Accounts, or any Book of Accounts or Memorandums kept by the ſaid *William Wood*; deſires to be excuſed from anſwering. Being asked what induced thereto; he likewiſe refuſes to anſwer. Being ask'd whether he had any Directions from any Perſon whatſoever ſo to do; he anſwers, he had not. Being asked whether he has had any Communication with the ſaid Biſhop, or has receiv'd or ſent any Meſſages from or to his Lordſhip; he anſwers, that he has not had any ſuch Communication, nor ſent or receiv'd any ſuch Meſſages verbally or in writing, otherwiſe than in a publick manner, and with the Allowance of the proper Officers.

Capt. 28° *die Februarii* 172⅔. Tho. Moore.

Coram me

Cha. Delafaye.

D. 51.

Minutes of the Examination of Thomas Moore M. A. *Chaplain to the Lord Biſhop of* Rocheſter, *before the Lords of the Committee of Council, the* 28*th Day of* February, 17⅔. *Deliver'd in by Mr. Chancellor of the Exchequer* 8 March, 1722. *and then read.*

Preſent,

Lord Chancellor,
Lord Preſident,
Lord Privy-Seal,
Lord Steward,
Lord Chamberlain,
Duke of Grafton,
Duke of Roxburgh,
Earl of Cadogan,
Lord Viſcount Townſhend,
Lord Viſcount Harcourt,
Lord Carteret,
Mr. Chancellor of the Exchequer.

THE Examinant being asked, whether he had not in his Poſſeſſion a Day-book of Accounts belonging to one *William Wood*; he deſir'd to be excuſed from anſwering any ſuch Queſtion. Then the Examinant was acquainted that he is charged upon Oath with having, on or about Monday laſt, called upon *William Wood*, the Biſhop of *Rocheſter*'s Coachman, to ſhew him a Day-book of Accounts the ſaid *Wood* kept, that he might read a few Lines in it, and with having kept the ſaid Book, and refuſed to deliver it back to the

the ſaid *Wood*, ſaying it ſhould be forth coming. He was alſo told the ſaid Book contain'd Evidence for the King in a Matter of a high Nature; and he was requir'd to deliver up the ſaid Book. He anſwer'd, ſo he would if he had it; that he knew nothing of it. Being told that ſtifling the King's Evidence in an Affair of ſo great Concern, was an Offence for which he might ſuffer ſeverely; and being adviſed to think of the Conſequence; he anſwer'd, that he could never think of any thing, where ſo dear a Friend was concern'd. Being asked if he had not talked with the ſaid *Will. Wood* the Coachman; he ſaid, Yes, frequently about his Buſineſs; that he talked with him laſt Monday about his Hay and his Horſes. Being warned to conſider; he ſaid, he was conſidering that he was called upon to accuſe his beſt Friend, which he look'd upon to be as ill, as if a Child ſhould accuſe his Father. He then was told that he was not call'd upon to accuſe any body, but to deliver up a Book he had got by Artifice, to the Poſſeſſion of which he had no Right, but to which the King had a Right as being his Evidence. But he perſiſted in his Denial of his having the Book, or having taken it, or knowing any thing of it.

D. 52.

Monday-Night.

Copy of the Biſhop of Rocheſter's *Letter, ſeized 26 February* $17\frac{22}{23}$. *Deliver'd in by the Chancellor of the* Exchequer, *and read* 8 March 1722.

I Have the Gout in my Right-Hand, and it is grown more troubleſome than it was: ſhould it continue to do ſo, I ſhall in a Day or two be incapable of writing, and muſt therefore be contented with receiving what you ſhall ſend, without returning any Anſwer, unleſs by the Hand of a Servant.

I take *K*'s Account to be the trueſt, that they are reſolved to *puſh me*; but I cannot yet believe that it will be by *Bill*, but by an *Impeachment*. The Conſequence of which will be a Bill impowering the Chapter, *&c.* as I have ſaid, while that Impeachment depends. In that Caſe, the *particular* Advice of Friends, what ſteps I am to take, and how I am in every caſe to behave, would be very welcome. *J. T.* ſurely ſhould be ſpoke to, to inform himſelf as well as he can in every Reſpect, and to ſend me (by *Y.*) the beſt Advice he can himſelf propoſe or collect from others. If I judge right of what *K.* ſays, there are thoſe would be glad the Arrow ſhould be drawn to the very head, not caring tho they venture my Ruin, in hopes of ruining others. If there be any Caution and Warineſs uſed in the Caſe, it will, I apprehend, be on the ſide of the Miniſtry, for fear of their loſing their Point, by overſtraining the Matter. I ſhall expect a further Account of your Conference at two a-Clock to day, with *K.* Since the Attack is certain, is any Method taken to bring up the *Abſent-Lords*, particularly the *Biſhops? Abington*, I think, has been away all the Seſſion. *Angleſey* can bring him up with him, if he pleaſes: But 'tis to no purpoſe for me to enter into Particulars. This is the Part of thoſe who are concerned for me and the Cauſe; and their Management in the caſe will ſhew to what Degree their *Concern* riſes; and to them therefore I leave it.

If the Narrative relates chiefly to *Nano*'s, *Sample*'s, and *Layer*'s Affairs, ſo far it cannot affect me: for I never heard of the Names of either of the three till after this Plot broke out.

If I cannot *ward the Blow*, i. e. if the Impeachment cannot be ſtopp'd, I am a Priſoner for ſome Years without Remedy. In order to ſtop it in the *H.* of *C.* methinks it will be of moment to obſerve, That it is the firſt Impeachment that ever was avowedly brought upon conjectural Evidence. In other Caſes, the Facts and Cir-

Circumſtances upon which the Impeachment was brought, being not previouſly declared, it could not be known, whether the Impeachers had not *ſufficient Grounds* to proceed upon. But here they *ante manum* produce their Evidence, and *all* their Evidence; and if that ſhall appear not ſufficient to *found* an Impeachment, methinks the very lodging it may be ſtemm'd.

If any of the *Committee* or the *Miniſtry* will aver, That there is any *Oath* made againſt me of treaſonable Practices, by any *Living Witneſs*, or that they have any ſuch Witneſs, who has *undertaken* to prove any Crime againſt me, when it ſhall be thought fit to proceed upon the Impeachment; ſuch Aſſertions may induce the Houſe to impeach. But in ſuch caſe, let the Miniſter or Member of the Committee be oblig'd to deliver in the Name of ſuch Perſon, in a Note to be ſealed and left with the Speaker, and open'd when the Diſcovery of ſuch Evidence will be attended with no Inconvenience; and let him *then* undertake to juſtify the Truth of his Aſſertion. Otherwiſe, to impeach a Man, when there is *confeſſedly* no living Evidence whatſoever againſt him, will be barbarous; eſpecially after waiting *ſix* Months to get ſome ſuch Evidence, and confining a Priſoner all that while after the cloſeſt and moſt rigorous manner, to the evident Hazard of his Health and Life. Such Puniſhment, and the farther Confinement which the late Law allows, is ſufficient for *bare Suſpicion* of Treaſon. And if in eight Months more any Evidence can, after all, be produced, the Priſoner will be forth-coming then to anſwer his Accuſation. But to impeach him in hopes of finding Evidence afterwards, and acknowledging there is none at preſent, is unreaſonable in it ſelf, altogether unparliamentary and unprecedented. And ſuch a Precedent once ſet, may be attended with terrible Conſequences, which others may feel in their turn. For whoſe Liberty is ſafe, if the *H. of C.* may accuſe any one, even when they *own* they have no *Legal Proof* againſt him? They are the Grand Inqueſt of the Nation, and ſhould find their Bills, as Grand Jurys do, upon ſome poſitive Evidence; they cannot, they ought not, to proceed ſolely upon Conjectures and Probabilities. This is the Advantage I would make of their previous Declarations in the Narrative; and it is, in my opinion, a very great Advantage towards quaſhing any Attempt that may be made towards an Impeachment. I have not time to explain my ſelf farther on this head; but ſhould not be unwilling what I have ſaid ſhould be ſhew'd to ſome knowing Friend of the *H. C.* upon whoſe ſtrict Secrecy, as well as good Judgment, I may depend; particularly to Mr. *Br.*

If there be no Impeachment, I ſhall certainly be at more liberty here, when the Parliament is up; and being ſo, can put all capitular Affairs into an eaſy Method of being legally tranſacted, even when I my ſelf am not preſent among them. Should there be an Impeachment, a capacitating Bill will, as I have ſaid, probably follow. But even *then* I can ſhew that it is unneceſſary, and nothing but Neceſſity (and the Unreaſonableneſs of puniſhing twelve other Men for my Faults) can ever juſtify it. Biſhop *Williams*, Dean of *Wr.* was confined to his Dioceſe for two or three Years, and yet a Method was found to renew Leaſes and do Buſineſs at *Weſtminſter*, neceſſary for the ſupport of the Body, during his Abſence. And when he was afterwards impriſon'd in the Tower for two or three Years more, and a Commiſſion under the Great Seal iſſued, impowering the Subd. and Chapter to proceed without him; this was look'd upon as an unjuſtifiable Strain of the Prerog. and one of the great Blemiſhes of that Reign. And when Biſhop *Williams* came out of Priſon, he reverſed all they had done (without his Conſent) in prejudice to his Rights as Dean; and particularly voided ten Patents of ten Offices they had granted, the Nomination to which was veſted in him by Charter, and conſequent Uſage.

In truth, the Dean, by Charter and Uſage, has ſeparate Rights from the Chapter; theſe are perſonal, and can be exerciſed by him, wherever he is, or by the Sub-dean, whom he always and ſolely appoints: And for the Exerciſe of theſe Rights, therefore, no Bill can be neceſſary. The Biſhop of *Briſtol*, at this time, diſpoſes of Offices in his Gift, Chambers, *&c.* even when he is attending the Parliament, for ſix or ſeven Months; and his Sub-dean governs the College in his ſtead, and by a Proxy lodged with him is enabled in the Dean's Name to tranſact all capitular Buſineſs whatever, together with the Canons. But my Hand is weary, and I am come to the end of my Paper.

What I have written in four ſides may, I think, upon a Review of it, be ſhewed by you, in confidence, to Mr. *Br——y*, tho there are other things mix'd with what I would have him ſee. You muſt not tell him what *K. Y. &c.* means, and then there is no harm. You ſhould write a ſhort Note to him as ſoon as you receive this, and deſire to know when you may wait upon him alone, and then ſhew him the Paper, part of which you thought of tranſcribing; but it was too long, and you chuſe rather to leave the Original with him for his Peruſal. If he ſeems inclinable to return any

Anſwer; tell him you will tranſcribe it, and give him his Paper back immediately. But I fear he will ſcarce venture to make any but a verbal Return. If ſo, do not take that verbal Anſwer from him immediately, but deſire him to appoint another time when you may wait on him and receive it, after he has (if he thinks fit) adviſed with Friends. The Intermixture of other Buſineſs will make him ſee that the Paper was not intended for him, and will be an Excuſe for the Haſte with which it was wrote. And the Confidence you in that caſe place in him, will probably procure a mutual Return.

There is one more muſt know of the Secret of the Conveyance; and that is the Perſon employed in making it, and procuring its being made, if it was not *Sam* himſelf. Sift *Sam*, and know from him certainly, who is privy to it, and enjoin him the utmoſt Secrecy. *Frank*, I hope, knows nothing of it. I expect the Event of the Dialogue with *William*, and the other Accounts from *Q.* to morrow. You may, when you ſee *Br*——*y*, impart the Story of that Villany to him, and deſire his Advice upon it, at what time and in what manner it may be proper for me to bring that matter upon the Stage, and ſhew what extraordinary Methods are taken to get at me, and beg the Lords Protection in the Caſe againſt ſuch vile Practice. I hope *William* has not given into it, and then my way will (ſome time or other) be clearer towards a Complaint; whenever it is proper, I think, the Raſcal my Neighbour may be ſummoned before the Lords, and made to tell who employed him to proffer ſuch Sums, and be puniſhed by them for ſuch Practices.

If the Butter you ſend me on *Wedneſday* be *excellently good*, it will be as good a Reaſon for my having it from my *Weſtr.* as my having Water from thence daily.

If there be any Proceedings againſt me, early Care muſt be taken of Money. I will not preſs you on that Head; but the Bond of 500 *l.* which the Chapter owes me in your Name, being upon ſo good Security, may eaſily be turned into Money, by *Z.* perhaps— *Q.* deſtroying the Declaration of Truſt to me, and *Y.* giving another to *Z.* and he may have the Intereſt on that Bond when paid from the time of his furniſhing the Money. But this I mention upon a Suppoſition only that there may be a preſſing occaſion for Money. I have ſtill by me between 2 and 300 *l.* and I ſuppoſe *Q.* has collected ſome ſmall Sums from the Tenants. I ſhall be furniſhed with none from the Chapter, tho a great deal is due to me.

Since I know not what may happen to me, I am determined, while I am poſſeſſed of all my Rights as Dean, to fill up the two vacant Places, that are without Controverſy in my ſole Gift; and to that end ſhall encloſe a Paper dated at ſome diſtance of time, which you may put in the Sub-Dean's Hands, and deſire him to produce when there is a proper occaſion. You need not let him know it was not written when dated, nor how long you have had it in your Cuſtody.

Before it is delivered to the Sub-Dean, *Sam* muſt ſign a Paper, declaring that he will allow *Joſeph half the Profit* of the Sacriſt's Stipend and Board-Wages, and Perquiſites of all kind, as well of his Perquiſites as Deputy to *Low*, as of thoſe which belong to the Sacriſt's Place to which *Sam* is nominated. And in that caſe *Joſeph* ſhall give another Paper under his Hand, to allow *Sam* the half of his two little Places, when he can come into Poſſeſſion of them, and get to be paid for them. For I would have them *equal* in their Advantages. *Sam* indeed is the elder Servant, but *Joſeph* has ſuffer'd, and is like to ſuffer moſt by a long and cloſe Confinement with me. And they are both very honeſt and very truſty Servants; and I hope ſtill to live to be able to do better for them. I doubt not but theſe Nominations will hold good at Law, unleſs the Bill to be brought in ſhall go backwards and void every thing I have done, as Dean, from the time of my Commitment, which will be the moſt extravagant and unreaſonable Thing that ever was done.

On the contrary, I hope, when my Friends underſtand my Caſe (if they will give themſelves the Trouble of underſtanding it) they will be able to prevent any Bill whatſoever to qualify the Chapter to act without me; eſpecially ſuch an one, as veſt in the Subd. and Chapter the Rights perſonally, ſeparately and ſolely belonging to the Dean.

Upon reconſidering Matters, if *Z*'s Account of the Narrative be juſt, I cannot conceive how 'tis poſſible to Impeach *after* it has been read, *i. e.* after an open Confeſſion made by them that they have nothing under my Hand, no Oath, no Living Evidence againſt me, but Inferences only and Conjecture and Probability. They may Impeach me indeed *before it*, becauſe the H. not being then acquainted with what they have to produce, may ſuppoſe it to be much ſtronger than it is; but to Impeach after a Declaration made that they have no poſitive Proof is ſo abſurd, that I could almoſt flatter my ſelf with the thought, that they mean

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it as a *Check* againſt Attempt that may be made in the H. of Lords towards Bailing, and not deſigning it in good earneſt. And yet if that be ſo, *K.* is either deceived, or in the Secret of deceiving me, thinking he makes a good Bargain for me if I am neither Impeach'd nor Bayl'd; but eſcaping a Parliamentary Proſecution, am left to the Mercy of thoſe who committed me.

Thus, you ſee, I turn things every way; having no ſolid Foundation on which to build my Reaſonings, for want of the Intelligence requiſite. Pray deſire *Z.* to get me further and more particular Accounts of the Narr. if it be poſſible, and ask *Br.* alſo (who from henceforward is *L.*) to get you ſome Account of it beforehand. Nothing is more inſtructive to me, or enables me better to paſs ſome ſort of Judgment on my own State, and to gueſs at what will follow. That ſhort Account *Z.* ſent has furniſhed me with more Remarks of that kind than all I had heard before from all Quarters.

Monday-Night. Once again,

Adieu.

Memorandum,

THIS Letter was incloſed in a Blank-Cover, on the out-ſide of which the following words were written.

DEſire *Z.* if he can poſſibly, to get a particular Account whether *Jack* be mentioned in the Report, *much* or *at all*, and in what manner. As *Y* is to diſcourſe *L.* about the late Villany of my Neighbour; ſo I could wiſh *Q.* would diſcourſe *V.* and take his Advice upon it, *whether* any is to be done upon it, and *what* and *when*.

E.

PAPERS

RELATING TO

GEORGE KELLY.

A

PAPERS

RELATING TO

GEORGE KELLY.

E.

Liſt of Papers relating to *GEORGE KELLY*, Clerk.

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16. *Paper of Directions taken upon* George Kelly, *when he was firſt apprehended*, May 19. ibid.
17. *Pocket Book taken upon* George Kelly *the ſecond time that he was apprehended*, October 23. ibid.
18. *Letter from* Glaſcock *to* Kelly, 1721. March. 3. p. 14
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21. *Letter from* ——— *to* Maſonneuve, *under Cover to* Waters, Aug. 20. Ibid.
22 *Examinations of* Humphrey Bayley, Octob. 27, *and* January 8. p. 16
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26. *Copy taken at the Poſt-Office of a Letter from* Johnſon *to* Gordon le Fils, 1722, April 22. ibid.

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29. ——— R. *to* Jackſon, April 20. ibid.

30. *Copies taken at the Poſt-Office of Letters from* Quitwell *to* Vernon, April 21 *O.S.* 2 May, *N.S.* ibid.
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56. *Copies taken at the Poſt-Office of Letters from* Querry *to* Ireton, July 4-15. p. 35
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62,63. —— J. T. *to* Wilkins, July 25, Auguſt 5. ibid.
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69. —— Andrews *to* Maiſonneuve, Auguſt 9. ibid.
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72. —— Querry *to* Ireton, Auguſt 17-28. p. 45
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80. John Hutchins's *Account of his Journey to* Horn-Dean, Febr. 19, $17\frac{22}{23}$. p. 52
82. *Examination of* George Kelly *before the Committee*, &c. February 2. p. 53
6. b. *Examination of* Dorothy Kay, February 6. p. 5
6. c. *Further Examination of* John Malone, February 6. ibid.

The

The EXAMINATION *of* George Kelly, *alias* Johnſon.

May 21, 1722.

HE owns his Name to be *Kelly*, but that he goes by the Name of *Johnſon*; that he altered his Name on account of his being in Debt; that he is in Orders, was bred at *Dublin*, and ordained there; that he has of late gone by no other Name but *Johnſon*, and all Letters for himſelf were directed by that Name; That he has called at Coffee-Houſes for Letters for another, one Mr. *Talbot*, who was under a Cloud, having ſeveral Bargains on his Hands, that they were directed by ſeveral Names; That this *Talbot* went for *France* or *Spain* about a Week ago, he knows not which; That he does not know who *James Johnſon* is that writes to him from *Edinburgh*; that he did convey to him a *French* Arreſt, which one *Glaſcow* had ſent him from *Paris*, deſiring, when he had read it, he would ſend it to the ſaid *Johnſon*; that he went from *Ireland* to *France*, there got Money in the *Miſſiſſippi* Stock, then came to *England*, went again to *France* lately, ſtayed there ſix Weeks; has been returned about five Weeks; does not remember any body he went to particularly ſince his Return knows no body that goes by the Names of *Howell*, or *Quitwell*, or *Illington*, or *Hacket*, or *Jones*, or *Baker*. He did ſince Mr. *Talbot* went, receive a Letter at a Coffee-Houſe for him by the Name of *Baker*, and read it, but does not remember the Purport of it, and has forgot whether any Letter was encloſed in it. Being ask'd about his Behaviour at the Time of his being taken, excuſes it upon the Surprize he was in, owns he drew his Sword, and bid the Meſſenger go out of the Room; ſays, he did not make any Paſs at him; ſays, the Paper he burnt, was a Letter he received that Morning from a Gentleman, which he did not care ſhould be expoſed.

Having deſired to be called in again, ſays, he never went but to Mrs. *Barnes's*; ſays, a little Dog was ſent to him from *France*, that he gave it to Mrs. *Barnes*, that the Dog had a Misfortune in coming, had his Leg broke.

E. 2.

The EXAMINATION *of* Jane Barnes, *living in* Bury-ſtreet, *in the Pariſh of St.* James's, Weſtminſter, *Widow.*

May 21, 1722.

WHO owns that ſhe knows one Mr. *Kelly*, who lodg'd in her Houſe two Years ago; that he comes ſometimes to viſit her; that he pretended to court her; that he has written to her from abroad; that he never went abroad but once ſince their Acquaintance, that ſhe knows of; that when he came to her Houſe, he went by the Name of *Johnſon*; that ſhe never had any Letters to convey from or to him; but being ſhewn a Note from Mr. *Talbot*, which ſhews ſhe had one from him for *Kelly*, alias *Johnſon*, ſhe owns ſhe had ſuch a one left with her; ſhe knows nothing of the little Porter; *Johnſon*, alias *Kelly*, went to *France* upon Concerns he had in the *Miſſiſſippi*.

E. 3.

A Letter from J. Talbot *to Mrs.* Barnes, *at her Houſe in* Berry-ſtreet.

Madam,

FIRST, I beg pardon for troubling you thus early, and next, that you'll pleaſe to give the incloſed to Mr. *Johnſon*, when you ſee him. I ſent to his Lodgings to enquire for him; but they could give me no Account of him, which is the Reaſon, Madam, I take this Liberty, which, I hope, you'll forgive.

Madam,

Your moſt Humble Servant,

J. Talbot.

E. 4.

Examination of Mrs. Jane Barnes, *at a Committee of Council,* May 23d, 1722.

Preſent,

The Archbiſhop of *Canterbury.*
Lord Chancellor.
Lord Preſident.
Lord Privy Seal.
Lord Chamberlain.
Duke of *Grafton.*
Duke of *Devonſhire.*
Earl of *Berkeley.*
Lord Viſcount *Townſhend.*
Lord *Carteret.*
Mr. Chancellor of the *Exchequer.*

MRs. *Barnes* being interrogated whether ſhe knew of a little Dog that was brought from *France*, anſwer'd, that a little Dog, whoſe Leg was broken, was left with her to be cured by Mr. *Kelly*; and that the ſaid little Dog was not deſigned for her, but for the Biſhop of *Rocheſter*; that *Kelly* told her, the ſaid Dog was for the Biſhop of *Rocheſter*; that the Dog was called *Harlequin*, a very fine ſpotted Dog. That *Kelly* promiſed her, the ſaid *Barnes*, to get the Dog for her, from the Biſhop of *Rocheſter*, in caſe it did not recover its lameneſs.

Taken and Signed in the Cabinet Council.

Jane Barnes.

E. 5. a.

The Information of John Hutchins, *one of his Majeſty's Meſſengers in Ordinary,*

WHO ſays, that in Purſuance of a Warrant to him and *Valentine Randall*, directed for the Apprehending of - --- *Kelly*, alias *Johnſon*, for Treaſonable Practices, ſigned by the Right Honourable the Lord Viſcount *Townſhend*, he, with the ſaid *Randall*, and others, waited for the ſaid *Kelly* near his Lodgings, in *Rider-Street*, St. *James's*, having with them a Perſon who was to ſhew them the ſaid *Kelly*, and his Lodgings; that about one a Clock yeſterday Morning, Captain *Montague*, who Lodges in the ſame Houſe, came home, and the Informant and *Daniel Chandler*, another Meſſenger, by miſtake ſeiz'd him, the Perſon who was to inform them being at ſome Diſtance looking after another Perſon coming that Way, whom he ſuſpected to be *Kelly*; that Captain *Montague* told them his Name, and that he was an Officer in his Majeſty's Service, and if they were to apprehend any Body he would aſſiſt them, upon which, they went out towards the Corner of *Berry-Street*, and there met *Kelly*, follow'd by *Randall* and *Ling*, (another Meſſenger) and by the Perſon that was to inform, who told them it was *Kelly*; that they made up to *Kelly*, and ſeized him; he offered to draw his Sword, but they prevented him, and carried him to his Lodgings; that Captain *Montague* hearing them coming in, came down to them, and went into them into *Kelly's* Room; that the Informant and *Randall* took his Pocket Book, and Papers out of his Pocket, and put them into *Kelly's* Hat, which lay in a Window, having firſt taken his Sword, and given it to Captain *Montague* to hold. That *Chandler* coming in, and ſaying, that *Lyng* (whom they had left in the Street) would be murder'd, *Randall* and he went to his Aſſiſtance, leaving the Informant and Captain *Montague* in the Room with *Kelly*. That whilſt the Informant was waiting the Return of *Randall*, or *Chandler*, in order to ſearch *Kelly's* Room for Papers, *Kelly* began to ſay, the Warrant was not for him; but the Informant reply'd, that he had ſhew'd it to him, and ſhew'd him the Body of it, and my Lord *Townſhend's* Name at the Bottom, (which had been done before *Chandler* went out, and in the Preſence of Captain *Montague*, who had look'd at it;) but *Kelly* inſiſted to ſee it again, and the Informant anſwer'd, *Chandler* had it; that *Kelly* then called to the People of the Houſe to lock the Street Door, and let no Body come in; upon which the Informant ſtepp'd to the Street-Door to

prevent

prevent them: In the mean Time, *Kelly* got to his Sword, which lay behind Captain *Montague* in a Window, and drawing it, made a Paſs at the Informant, as he was coming again into the Room, which he avoided, by ſtepping back; then *Kelly* made another Paſs, which the Informant parry'd with the Door, which he held in his Hand, ſtepping out of the Room, *Kelly* at the ſame time ſwearing if he offer'd to come in again, he would ſtab him; upon this, the Informant went to the Street-Door, to ſee if *Chandler* or the others were in call, but not having a Sight of them, he deſired a Chairman, who ſtood over the Way, to call them; in about a Minute's time, a Serjeant, and a File of Musketeers came to the Houſe, and then *Kelly* ſubmitted; that when the Informant came into the Room again, he ſaid to Captain *Montague*, he hoped he had not ſuffered *Kelly* to meddle with any of the Papers that lay in the Hat; *Montague* ſaid, yes, he had taken one, and the Informant asking what he had done with it, Captain *Montague* anſwered, he had burnt it; upon which the Informant asking him, how he came to let him do ſo, *Montague* anſwered, he had not ſeen his Name in the Warrant, and he did not know whether it was ſo or not, and he was unwilling there ſhould be Murder; for if he had gone to hinder him, one of the two muſt have been killed, or to that effect. The Informant farther ſays, that he does verily believe, that the ſaid *Kelly* made the Paſſes at him as abovementioned, with an intent to murder him, and that *Kelly* ſaid, if my Lord *Townſhend* had been there himſelf, he would have done the ſame.

John Hutchins.

Jurat 21o. *Die Maij* 1722.
Coram me,

Carteret.

E. 5. b.

The Information of Daniel Chandler, *one of his Majeſty's Meſſengers*, May 21, 1722.

WHO ſays, that on *Saturday* Night laſt, he and others went with *John Hutchins*, and *Valentine Randall*, who had my Lord *Townſhend's* Warrant to apprehend one *Kelly*, alias *Johnſon*; that about Twelve at Night, a Perſon who was to ſhew them *Kelly* and his Lodgings, told the Informant and thoſe who were with him that he had ſent to inquire, and *Kelly* was not yet come home; that then the Informant and *Hutchins* kept walking forward and backward in *Rider-Street*, where *Kelly's* Lodgings was, waiting for his coming in; that about one in the Morning, the Informant being near the Door of the Houſe where *Kelly* lodg'd, and *Hutchins* with the Perſon that was to inform them being at the End of *Rider-Street* next St. *James's Street*, a Gentleman came and knock'd at the Door, upon which the Informant ſeiz'd him, and *Hutchins* came to his Aſſiſtance. The Gentleman ask'd what they meant, the Informant ſaid, they ſuppoſed him to be the Perſon againſt whom they had a Secretary of State's Warrant; the Door being opened, they went up with the Gentleman into his Lodgings, who told them he was an Officer under the King as well as they, that he believ'd they were miſtaken in the Perſon, and that his Name was *Montague*; he then ask'd, who they were; upon which they ſhew'd him their Scutcheons, told him they were King's Meſſengers, and ſhew'd him my Lord *Townſhend's* Name at the Bottom of their Warrant; he then ſaid, he ſhould be very ready to aſſiſt them, and that there was a Gentleman who had lodged ſome time in the Ground Floor, but who he was he could not tell; then the Informant told *Hutchins*, he would go and give *Randall* and *Lyng*, (another Meſſenger) who were without, an Account of what had paſs'd, and that he, *Hutchins*, ſhould ſtay, to keep the Maid of the Houſe from giving any Notice, and he hoped they might yet take *Kelly*; accordingly, the Informant went out, and told *Randall* and *Lyng*, and then met the Perſon who was to inform them at the Corner of *Rider-Street* next to St. *James's-Street*, and acquainted him likewiſe with what had paſs'd, and return'd to the Houſe, where he found Colonel *Montague* and *Hutchins* in *Kelly's* Room in the Ground Floor; then *Hutchins* went out, and the Informant ſtay'd with the Colonel; about a Quarter of an Hour after, the Informant hearing ſome Body knock at the Street-Door, went and opened it, and *Hutchins* came in with *Randall*, and *Kelly* whom they had taken Priſoner, and another Perſon; the Informant took hold of *Kelly's* Arm, and he and *Hutchins* led him into his Lodgings; the Priſoner, *Kelly*, ask'd who they were, what they meant, whether

they,

they came to rob him. They ſaid, no; they were the King's Meſſengers, and the Informant ſhew'd him his Scutcheon, telling him, they had the Secretary of State, my Lord *Townſhend*'s Warrant againſt him. The Priſoner ſaid, he did not underſtand that; the Informant pulled out the Warrant, and ſhew'd it him, and gave it to Col. *Montague*, who having perus'd it, ſaid, it was a very ſufficient Warrant, and the Priſoner might be ſatisfied. Upon that the Priſoner ſaid, they might do what they pleas'd with him, and they ſearcht him, and took ſome Papers out of his Pocket. *Hutchins* adviſed the delaying to ſearch his Scrutore till a Conſtable was come: Preſently upon that, ſome body came to the Door, and ask'd for a Meſſenger, ſaying, the other Meſſenger (meaning *Lyng*) was mobbed, and if they did not come to help him, he would be knocked on the Head; upon which *Randal* went away to aſſiſt him. Another Perſon came ſoon after and told the Informant, the other Meſſengers were got to the wrong Houſe, and that he ſhould make haſte, and carry them to a Houſe they were to ſearch, and ſent one to ſhew them that Houſe, and the Informant went thither accordingly, leaving the Priſoner *Kelly*, as he thought, in a very good Temper, and with him Col. *Montague* and *Hutchins*. The Informant carried away the Warrant, which had been returned to him, having it in his Pocket.

Jurat 21*mo die Maii* 1722. *Daniel Chandler.*
Coram me
Carteret.

E. 6. a.

The Depoſition of Elizabeth Levett, *taken the* 18th *Day of* Auguſt, 1722.

BEING asked when Mr. *Johnſon*, alias *Kelly*, arrived from *France*, ſhe anſwers, that it was on *Wedneſday* the 11*th* of *April* laſt; being asked how ſhe came to know that he came at that Time, ſhe ſays, that the *Wedneſday* before ſhe went to ſee Mrs. *Barnes*, and to ſhew her a Pamphlet in Verſe, entituled, [*A Dialogue between High-Dutch and Low-Dutch*] or to that Effect; Mrs. *Barnes* then told her, that ſeveral of the Parry (meaning the diſaffected) had been enquiring for the ſaid *Johnſon*, alias *Kelly*, and they were in great Pain leaſt he ſhould be taken. To which the Deponent replying, what if he were? Mrs. *Barnes* anſwered, to be ſure he brought over Letters, and that ſhe verily believed that Man (meaning *Johnſon*, alias *Kelly*) would come to be hanged. That on *Friday* the 13*th* of *April*, the Deponent went again to ſee Mrs. *Barnes*, who told her Mr. *Johnſon* arrived the *Wedneſday* before (the 11*th* of *April*) at eight in the Morning, and had not been in Bed for three Days; that he then went to Bed, and lay till two a clock, and having dined with Mrs. *Barnes*, went out after Dinner with ſome Letters, and the next Morning, being *Thurſday*, the Biſhop of *Rocheſter* ſent for him. I'll aſſure you (ſaid Mrs. *Barnes*) he (meaning the Biſhop) ſent his own Coach. That the ſaid *Johnſon*, alias *Kelly*, went out of Town that *Thurſday*, and returned the *Saturday* following. The Deponent ſays, that on *Saturday* in the Afternoon, coming up the Street where Mrs. *Barnes* lives, ſhe found her at Home, and Mrs. *Barnes* told her, the ſaid *Johnſon*, alias *Kelly*, was come Home. The Deponent ſays, that during his Abſence, on *Friday* the 13*th* of *April*, Mrs. *Barnes* asked her, if ſhe could read *Latin*, the Deponent anſwering, no; ſhe (*Barnes*) ſaid, ſhe was ſorry for it; for if ſhe could, they might have known all that they were doing; for ſhe had in her Hands a Paper all written with the King's (meaning the Pretender's) own Hand, which ſhe knew very well, having ſeen it ſeveral Times, and it was a full Power for all they were to do. The Deponent ſays, ſhe was told by a Perſon in the City, whom ſhe will not name, that ſhe had been ſhewn a *Manifeſto* of the Duke of *Ormond*, of which there had been thouſands printed, but only five or ſix given out, and no more were to be given out.

Capt. 18 *die Auguſti*, 1722. *Eliz. Levett.*
Coram nobis
Townſhend.
Carteret.

Jurat. 20 *die Auguſti*, 1722.
Coram nobis
Townſhend.
Carteret.

The further Depoſition of Elizabeth Levett, *taken the* 20th *of* Aug. 1722.

WHO ſays, that on *Saturday* the 14*th* of *April* laſt, after the Return of *Johnſon*, alias *Kelly*, from the Biſhop of *Rocheſter's*, when ſhe was with Mrs. *Barnes*, as is mentioned in her former Depoſition, talking of the Regulation that was to be in the Army, and that all the *Iriſh* were to be turn'd out, the Deponent ſaying ſhe was ſorry for it, Mrs. *Barnes* anſwered, ſhe was glad of it, for the Moment they were turned out, they (meaning the Diſaffected) would take them into Pay.

Eliz. Levett.

Capit & Jurat 20 *die Auguſti, ſupradict. coram nobis*

Townſhend.
Carteret.

E. 6. b.

The Examination of Dorothy Kay, *Feb.* 6, 1722-23.

WHO ſays, that ſome time about the Middle of *April* laſt, whilſt the Examinant lived with Mrs. *Barnes*, Mr. *George Kelly*, who then went by the Name of *Johnſon*, came to her ſaid Miſtreſs's Houſe on a *Wedneſday* Morning, and preſently went to Bed, and lay till Dinner time; that he lay there that Night, and the Examinant remembers his lying there on *Saturday Night* following, and ſtaying at home at her ſaid Miſtreſs's all *Sunday*; but ſhe does not remember that he lay there the *Thurſday* and *Friday* Night between the *Wedneſday* and *Saturday* beforementioned.

Dorothy Kay.

Capt. & Jurat. 6o. die Feb. 1722-23.

Ch. Delafaye.

E. 6. c.

The further Examination of John Malone.

WHO ſays, that he remembers, that on the Day when Mr. *George Kelly* came to Town, as is mentioned in his former Examination, given the 5th of laſt Month, he dined that Day with Mrs. *Barnes*; that he lay at her Houſe that Night, and the Examinant did not ſee him the two Days following: That the ſaid *George Kelly* lay at Mrs. *Barnes's* again on the *Saturday* Night, and on the *Sunday* Evening bid the Examinant carry his Night Gown to his Lodgings at Mrs. *Kilburn's*, after which the Examinant went thither on Mornings to attend him as he had done formerly.

John Malone.

Capt. & Jur. 6o. die Febr. 1722-23.

Coram me,

Ch. Delafaye.

E. 7.

Given in by Philip Neynoe, *at one of his Examinations before ſome of the Lords of the Privy Council*, viz.

Lord Viſcount Townſhend,
Lord Carteret,
Mr. Chancellor of the Exchequer;

And owned by the ſaid Neynoe *to be all of his own Hand-writing.*

MR. *George Kelly* has frequently told me, that he wrote the Lord Biſhop of *Rocheſter*'s Letters. That the Pretender relied more upon his Advices from the Biſhop, than from any other Perſon; that he was at the Court at *Avignon*, and he has related to me ſome Paſſages that happened when he was there.

I have ſeen all the Cypher s with him, and the ſame with Mr. *Carte*. Upon his Return from *France*, about *January* laſt (as near as I can recollect) when he actually went about Mr. *Dillon*'s Affairs, he brought over a great Bundle of Papers; part of them were *French* Libels; among the reſt, there was one in the Hand-writing of the Perſon, who writes General *Dillon*'s Letters; entituled, as near as I can remember, *Reaſons offered to Cardinal* Du Bois; proving that the eſtabliſhing of the Houſe of *Stuart* on the Throne of *England*, preferable to the Houſe of *Hanover*, was the real Intereſts of the Crown of *France*. But as the Author was a Papiſt, and he wrote to a Cardinal, moſt of his Arguments turn upon the Hinge of holy Church; for which reaſon I threw them into the Fire, and returned Mr. *Kelly* the reſt, which were on *Miſſiſſippi* Finances, *&c.*

He told me, that a Lord of the Council gave the Biſhop Notice of a Deſign to apprehend him, the *Wedneſday* before he was apprehended.

He never open'd himſelf expreſly, with relation to the Plot, that is now on Foot; but always argued conditionally upon it, that as Affairs ſtood, 'twas an improper Seaſon to make ſuch an Attempt.

He always made want of Money, the main Obſtacle to the Pretender's Intereſt, alledging, he might have Men enough any where, if he could but pay them.

Upon the laſt Argument he ſaid a hundred, nay fifty thouſand Pound, would be ſufficient. Upon my aſſerting the Impoſſibility of raiſing ſuch a Sum, he named the Dutcheſs Dowager of *Marlborough*; I ſaying, her Grace would never be induced to part with ſo much Money; he reply'd, he'd warrant ſhe would be brought to it.

He aſſured me, that whenever there happened to be a Stand made for the Pretender, great Swarms of *French* Voluntiers would appear for him.

On *Saturday March* we wrote conjunctly a Letter directed to Mr. *Maiſters*, encloſed to Monſieur *Pajot Maitre des Poſtes à Paris*, upon Inſtructions Mr. *Kelly* had received, but did not ſay from whom, the fair Copy was my Hand-writing, and ſo folded up as to create Suſpicion, in order to have it intercepted. The Deſign, as I take it, was to amuſe the Government.

Mr. *Kelly* aſſured me the Biſhop drew moſt of the Proteſts, and Earl *Cowper* reviſed ſome of them, but that his Alterations were principally Raſures, when the Biſhop had writ too warmly.

I have left Mr. *Kelly* at the Biſhop's Door, and at Sir *Harry Goring*'s, at which Places he has ſtaid an Hour or two, then met me at a Place appointed, and told me he had been writing Letters.

I have ſeen ſeveral Letters from *Paris*, and other Parts, to Mr. *Kelly*, but they never contained any thing very material. Letters of his own I have ſeen of like kind.

He told me the Biſhop never ſuffer'd him to take a bit of Paper of his Hand-writing out of the Room. The Paper he burnt, he aſſured me, was an *Iriſh* Letter, complaining of the Executions for enliſting Men for Foreign Service.

At the ſame Time Mr. *Bingley*, who lay two pair of Stairs above Mr. *Kelly*, burned a Bundle of Writings he had that Day received from him ſealed up.

Mr *Kelly* propoſed firſt to me, ſettling at *Paris*, in the Service of the Lord *Lanſdoun*, promiſed to make my Reception very eaſie, and frequently wiſhed I was there, declaring I might be very uſeful.

He appeared always very eaſie, till a few Days before I embarked, when I obſerved him to be ſomewhat diſturbed; however, he ſtill perſiſted in aſſerting, that nothing could be proved upon the Biſhop, Mr. *Dennis*, *Kelly*, or himſelf.

Mr. *Carte* made two Expeditions in the Spring, one to *Cornwall*, the other into the Counties of *Warwick*, *Nottingham*, *Derby*, and *Stafford*.

Upon my blaming the riotous Conduct at the *Coventry* Election, he replied, hang the Election, you never ſaw Fellows of ſuch Mettle, ſo well train'd, ſo fit for Buſineſs, *&c.*

I viſited him one Morning in *April*, and he told me he muſt run out, for *George Bangor* was going Expreſs to *Spain*, and he had Diſpatches to deliver to him.

Mr. *Kelly* has told me more than once, that the Biſhop was offered the See of *Durham*, on the Deceaſe of the Lord *Crew*. I have told this Story frequently, and could never once be believed.

E. 8.

Examination of Philip Neynoe.

Notes taken by Mr. Chancellor of the Exchequer, of what he declared in the Preſence of
Lord Viſcount Townſhend.
Lord Carteret.
Mr. Chancellor of the Exchequer.

THAT Mr. *George Kelly* had frequently told him, that the Biſhop of *Rocheſter* held Correſpondences with the Pretender, and the Pretender's Agents, and that he, Mr. *Kelly*, was employ'd by the Biſhop in Writing for him, and carrying on the ſaid Correſpondences; that Mr. *Kelly* told him, that the Pretender rely'd more upon his Advices from the Biſhop, than from any other Perſon.

That he had ſeveral times left Mr. *Kelly* at the Biſhop's Door, when Mr. *Kelly* went into the Biſhop's Houſe, and ſtayed there an Hour or two, and upon his coming to him, Mr. *Kelly* made Apologies for ſtaying ſo long, and told him he had been writing the Biſhop's Letters, which he always apprehended to be the Foreign Correſpondence of the Biſhop with the Pretender's Agents, and that Mr. *Kelly* told him, the Biſhop never ſuffered him to take a bit of Paper of the Biſhop's Hand-writing out of the Room.

That he knows, that Letters were directed to Mr. *Kelly* by the Name of *Moſes Hencock*, and ------ *Hattfield*, and that he had ſeen at *Burton*'s Coffee-Houſe, a Letter from General *Dillon*'s Agent or Secretary, to Mr. *Kelly*, wherein there were Compliments to the Biſhop of *Rocheſter*, by the Name of *Nauton*, which Mr. *Kelly* explained to mean the Biſhop. That Mr. *Kelly* had told him, that the Biſhop went ſometimes by the Name of *Jones*. That he had likewiſe heard, that the Biſhop went ſometimes by the Name of *Illington*, as he had been told by Mr. *Carte*, to the beſt of his Memory. That in the Letter which Mr. *Kelly* ſhewed him at *Burton*'s Coffee-Houſe, it was ſaid, that the Death of General *Crofton* would be a great Loſs to *Mansfield*, upon which Occaſion *Kelly* told him that *Mansfield* was the D. of *Ormond*.

That he had ſeen ſeveral Cyphers in Mr. *Kelly*'s Hand, and had ſeen him make uſe of them. There was a Cypher of Figures, where the Figures ſtood for Letters, for Words in common Uſe, and proper Names. There was another Cypher of fictitious Names for Perſons, and other Words made uſe of for Words in common Uſe, as Carpenters for *Scotch* Soldiers, Sadlers and Sophiſters for *Iriſh* Soldiers, and that Mr *Kelly* with great Freedom acknowledged that theſe Cyphers were for carrying on the Correſpondences with the Pretender's Agents.

That he has been employ'd to draw ſeveral Memorials to the Regent of *France*, ſoliciting Forces to be ſent to their Aſſiſtance: The firſt was drawn the Winter before the *South-Sea* Scheme. The Second, immediately after the *South-Sea*, in *January* 1720-21. The Third, in *December* laſt, all by the Order of one, called *Henry Wattſon*, which he took to be a fictitious Name, and does not know who he really was, but he took him to be Earl Mariſchal. The Memorial that was drawn in *December* laſt, was a Demand of 5000 Men, to be ſent over by the Regent to invade theſe Kingdoms.

E. 9.

Examination of Philip Neynoe, *Sept.* 13. 1722.

SAITH, that in *March* laſt, Mr. *Kelly* brought to him ſome Heads of a Letter to be drawn up by him, which was done, and wrote upon Paper folded Column-ways, and brought back corrected, and as he believes, by the Biſhop of *Rocheſter*,

Rocheſter, which was wrote with a Deſign to be intercepted, to amuſe the Government into Security.

That he drew ſeveral Memorials to be delivered to the Regent, repreſenting the favourable Circumſtances of their Affairs, and demanding his Aſſiſtance, by ſending a ſmall Force; which Memorials were delivered to Mr. *Kelly* and Mr. *Watſon*, (whom he believes to have been Lord Marſhal,) and the Heads given by them.

That he ſaw ſevrral Letters from *France*, writ by *Howell*, whom he takes to be Secretary to Mr. *Dillon*, and employ'd by him in the ſame manner that Mr. *Kelly* is by the Biſhop of *Rocheſter*.

Thas he ſaw a great Bundle of Letters brought by Mr. *Kelly* from *France*, but did not ſee to whom they were directed.

That the Biſhop of *Rocheſter*, Lord *Orrery*, Sir. *H. Goring*, Lord *North*, were the Principal Leaders and Directors of the whole Deſign.

That a Paper of Reaſons was drawn up, and brought to him to be tranſlated, proving the Advantages that would accrue to the Crown of *France* from the Houſe of *Stuarts* being upon the Throne, preferably to the Houſe of *Hanover*, which turning much upon the Intereſt of the Catholick Religion, he adviſed againſt the Publiſhing it.

That a Proteſtation was drawn in *Latin*, to be delivered at the Congreſs of *Cambray*, in behalf, and in the Name of the Pretender.

That the firſt Deſign in the Spring, was to have been executed in *London*, by ſeizing the Tower, and that the Duke of *Ormond* was then to have landed in the River; that the Diſcovery of the Plot, and the King's not going over, had put it off for ſome time; but that it was now reſumed, but to be attempted in the Weſt.

That by all their Converſations, he verily believed the Pretender was now in *Spain*, and would ſtay there till he heard from hence, or from *France*. That Mr. *Kelly* told him, the Dutcheſs of *Marlborough* was the Perſon that muſt reſtore the Pretender, and that ſhe was to furniſh 50,000 *l.*

That Mr. *Henry Watſon*, (whom he ſuppoſes to have been Lord Marſhal) was in *England* all laſt Spring, and that he lay with him ſeveral Nights; that the ſaid *Watſon* went away upon Lord *T*'s Letter to the Lord Mayor, ſaying all was over.

That he had heard from Mr. *Watſon*, that Lord *North* and Mr. *Webb* were thought of for the Command.

E. 10.

The Examination of Philip Neynoe.

(*d.*)

27 *Sept.* 1722.

This Paper, drawn out of the Paper mark'd (a) given in by *Philip Neynoe*, and the Minutes of his Examinations (b) and (c) and containing the Subſtance of thoſe three Papers, was read to *Philip Neynoe*, and acknowledged by him to be true, at the Cockpit, the 27*th* of *September*, 1722.

Preſent

Lord Chamberlain.
Duke of *Grafton*.
Earl of *Cadogan*.
Lord Viſcount *Townſhend*.
Lord *Carteret*.
Mr. Chancellor of the *Exchequer*.

HE ſays, that he has been employed to draw three ſeveral Memorials to the Regent of *France*, to ſollicit him to ſend Forces to the Aſſiſtance of the Conſpirators: The Firſt was drawn the Winter before the *South-Sea* Scheme; the Second, immediately after the Fall of the *South-Sea*, in *January* 1720-21; the Third, in *December* laſt; all by the Order of one *Henry Watſon*, which he took to be a fictitious Name, and does not know who he really was, but he took him to be the Earl *Mariſchal*. The Memorial that was drawn in *December* laſt, was a Demand of 5000 Men to be ſent over by the Regent, to

invade

invade theſe Kingdoms. The Heads of theſe Memorials were given him by *George Kelly*, and the ſaid *Watſon*. *Watſon* was in *England* all laſt Spring, and *Neynoe* lay with him ſeveral Nights; the ſaid *Watſon* went away upon Lord *Townſhend*'s Letter to my Lord Mayor; ſaying, all was over. The Examinant heard from Mr. *Watſon*, that the Lord *North* and Mr. *Webb*, were thought of for the Command of the Rebels when they ſhould riſe. The Examinant ſays, that Mr. *George Kelly* has frequently told him, that the Biſhop of *Rocheſter* held Correſpondencies with the Pretender, and the Pretender's Agents, that he (*Kelly*) was employ'd by the Biſhop in writing for him, and carrying on the ſaid Correſpondencies; that Mr. *Kelly* told him, that the Pretender relied more upon his Advices from the Biſhop, than from any other Perſon; that he had ſeveral Times left Mr. *Kelly* at the Biſhop's Door, when Mr. *Kelly* went into the Biſhop's Houſe, and ſtayed there an Hour or two; and upon coming back to him, Mr. *Kelly* made Apologies for ſtaying ſo long, and told him he had been writing the Biſhop's Letters, which he always apprehended to be the Foreign Correſpondence of the Biſhop with the Pretender's Agents; and that Mr. *Kelly* told the Examinant, the Biſhop never ſuffered him to take a Bit of Paper of the Biſhop's Hand-writing out of the Room. The Examinant ſays, he knows, that Letters were directed to Mr. *Kelly*, by the Name of *Moſes Hancock* and *Hatfield*, and that he has ſeen at *Burton*'s Coffee-Houſe a Letter from General *Dillon*'s Agent or Secretary, to Mr. *Kelly*, wherein there were Compliments to the Biſhop of *Rocheſter*, by the Name of *Nanton*, which Mr. *Kelly* explained to mean the Biſhop. That Mr. *Kelly* has told him, the Biſhop went ſometimes by the Name of *Jones*; that he has likewiſe heard, that the Biſhop went ſometimes by the Name of *Illington*, which he has been told by Mr. *Carte*, to the beſt of his Memory; that in the Letter which Mr. *Kelly* ſhewed him at *Burton*'s Coffee-Houſe, it was ſaid, that the Death of General *Crofton* would be a great Loſs to *Manſfield*, upon which Occaſion *Kelly* told him, that *Manſfield* was the Duke of *Ormond*. The Examinant ſays, that he has ſeen ſeveral Cyphers in Mr. *Kelly*'s Hand, and has ſeen him make Uſe of them: There was a Cypher of Figures, where the Figures ſtood for Letters, for Words in common Uſe, and for proper Names. There was another Cypher of fictitious Names for Perſons, and other Words made Uſe of for Words in common Uſe; as Carpenters for *Scotch* Soldiers, Sadlers and Sophiſters for *Iriſh* Soldiers; and that Mr. *Kelly* with great Freedom acknowledged, that thoſe Cyphers were for carrying on the Correſpondencies with the Pretender's Agents. The Examinant ſays, that he ſaw ſeveral Letters from *France*, written by *Howel*, whom he takes to be the Secretary to *Dillon*, employ'd by him in the ſame manner that Mr. *Kelly* was by the Biſhop of *Rocheſter*.

The Examinant ſays, Mr. *Cart* had likewiſe Cyphers, which he has ſeen; that *Cart* made two Journeys in the Spring, one to *Cornwal*, the other into the Counties of *Warwick*, *Nottingham*, *Derby* and *Stafford*; that viſiting *Cart* one Morning in *April*, *Cart* told him he muſt run out, for an Expreſs was going to *Spain*, and he had Diſpatches to deliver to him.

The Examinant ſays, the firſt Deſign in the Spring was to have been executed at *London*, by ſeizing the Tower, and that the Duke of *Ormond* was then to have landed in the River; but upon Diſcovery of the Plot, and the King's not going beyond Sea, it was put off for ſome Time; but it was now reſumed to be attempted in the Weſt. That the Biſhop of *Rocheſter*, Lord *Orrery*, Lord *North*, and Sir *Harry Goring*, were the principal Leaders and Directors of the whole Deſign.

E. 11.

Copy of the Paper found in Neynoe's *Pockets, after he was drowned.*
28 *Sept.* 1722.

Sent under a Cover, Sealed and atteſted by the Church-Wardens of St. *Martins in the Fields.*

Thomas Millington.
Nicholas Sweeting.

The Cover was open'd by the Lords, and I received the Paper, which was wet, from the Hands of Lord *Carteret*.

C. D.

TO write a Narrative of all Proceedings, that I have been concerned in carrying on againſt the Government, from the Beginning of the laſt Seſſion of Parliament to the preſent Time.

E. 11.

To give an Account of the Purport of ſuch Memorials, as I have been employed to draw, and the ſeveral Times when.

What Inſtructions and Directions I have had, and from whom.

What I know of the Management of the Proteſts of the Houſe of Lords in the laſt Seſſion, and to what Uſe and Purpoſe they were chiefly deſigned and calculated.

What Converſations I have had with Mr. *Kelly* and Mr. *Cart*, or any other Perſons principally imployed and truſted, concerning the Deſigns that have been carrying on for this laſt Year.

What I know or believe, concerning any Perſons of High Rank, and who I think had the chief Conduct and Direction of this whole Affair.

To be as particular as poſſible in Times, Places, and Perſons.

December 1719.

January 1720-21.

December 1721.

E. 12.

The Depoſition of James Stevenſon *of* Jermin-ſtreet *in the Pariſh of St.* James's Weſtminſter, *Deputy Sexton of the ſaid Pariſh,*

WHO ſays, that about the End of the Month of *November* laſt, Mrs. ---- *Kilburn* of *Great Rider-ſtreet* in the ſaid Pariſh, being at the Deponent's Houſe in Company with him, and with his Wife, and one Mrs. *Kilburne*, related to her the ſaid ---- *Kilburne*, ſhe, the ſaid ---- *Kilburne* falling into Diſcourſe concerning *James Johnſon*, alias *George Kelly*, now a Priſoner in the Tower, did, among other Things, ſay, that the Biſhop of *Rocheſter* frequently viſited him, and ſent his Servant to enquire after his Health, particularly one *Sunday*, on which the ſaid Biſhop expected him to dine with him; and upon his not coming, feared the ſaid *Johnſon*, alias *Kelly*, was not well; that Mr. *Neynoe* (who lately drowned himſelf, attempting to eſcape from a Meſſenger's Houſe) did conſtantly viſit the ſaid *Johnſon*, alias *Kelly*, and lay ſeveral Times in his Lodgings when the ſaid *Kelly*, alias *Johnſon*, was out of Town; that Mr. *Plunket*, now in Cuſtody of a Meſſenger, did alſo conſtantly viſit the ſaid *Johnſon*, alias *Kelly*; that Mr. *Bingley* (another Perſon now in a Meſſenger's Cuſtody) lodged in her Houſe, whilſt *Johnſon*, alias *Kelly*, was a Lodger there; and that it was he who recommended the ſaid *Johnſon*, alias *Kelly*, to her Houſe; that one *Mac Namara* did alſo frequently viſit the ſaid *Johnſon*, alias *Kelly*; that the ſaid *Bingley* was recommended to her for a Lodger, by two Siſters named *Gore*, who ſeemed to know him very well, and lodge at a Glaſier's in *Pickadilly*, overagainſt Lord *Burlington*'s Wall, and overagainſt the Queen's Head.

Jurat. 28 *die Dec.* 1722. *coram me*
Ch. Delafaye.

James Stevenſon.

Copy of the Depoſition of Mary *the Wife of* James Stevenſon.

HER Husband's Depoſition on the other Side being read to her, ſhe affirmeth the Contents thereof to be true to her Knowledge, excepting ſo much as relates to the within named *Kilburne*'s ſaying, that the Biſhop of *Rocheſter* did in Perſon viſit Mr. *Johnſon*, alias *Kelly*, at her Houſe, which the ſaid *Kilburne* might ſay whilſt the Deponent was abſent; ſhe not being conſtantly in the Room with her and the reſt of the Company. The Deponent further ſays, that this Converſation happened on the 23*d* of *November* laſt, which ſhe particularly remembers, becauſe it was the other Mrs. *Kilburne*'s Wedding Day; and that the ſaid ---- *Kilburne* told them, that the ſaid *Johnſon*, alias *Kelly*, always went by the Name of *Johnſon*, till he was ſeized by the Meſſengers. The Examinant ſays, that about 3 Weeks or a Month before this laſt *Chriſtmas* was twelvemonths, ſhe went to ſee the ſaid ---- *Kilburne*, who told her, ſhe had newly let two of her Parlours to the ſaid *Johnſon*, alias *Kelly*, who had taken them for a whole Year at Twenty Pounds a Year; the Examinant further ſays, that the ſaid *Kilburne* has told her, that after the ſaid *Johnſon*, alias *Kelly*, was let out upon Bail, People came to enquire after him, ſome by the one Name, and ſome by the other; and ſhe always ſent them to him, and they were equally received by him, which ever Name they asked for.

Jurat. 30 *die Dec.* 1722. *coram me*
Ch. Delafaye.

Mary Stevenſon.

The

The Examination of Margaret Kilburne *of* Little Rider-Street, *in the Pariſh of St.* James's Weſtminſter.

WHO ſays, that a Perſon who then went by the Name of *Johnſon*, and, as ſhe is informed, is now a Priſoner in the *Tower*, came to lodge at her Houſe about ſix Weeks, as near as ſhe can gueſs, before this laſt *Chriſtmas* was Twelvemonth. That ſeveral Perſons came to ſee and enquire after him, and his Lodgings being on the Ground-Floor next the Street, he often anſwered them himſelf; that ſuch of them as came to enquire after him, that ſhe knew of, asked for him by the Name of *Johnſon*; that particularly one time (on a *Sunday*, as ſhe beſt remembers) a Servant came, to whom the Examinant her ſelf ſpoke, and he told her, he was ſent by the Biſhop of *Rocheſter*, who was afraid Mr. *Johnſon* was not well, becauſe his Lord expected him, the ſaid *Johnſon*, at Dinner that Day, and he did not come, and the ſaid Servant, as ſhe believes, left a Letter for the ſaid *Johnſon*. That Mr. *Neynoe* (who was lately drowned attempting to Eſcape out of Cuſtody,) did frequently viſit the ſaid *Johnſon*, and lay in her Houſe one Night; that ſhe does not now remember the Names of any other Perſons that uſed to viſit the ſaid *Johnſon*; that ſhe did not hear of his Name being *Kelly*, till after he was ſeiz'd by the Meſſengers, and from that time, thoſe that came to her Houſe to enquire for him, asked for him, ſome by the Name of *Johnſon*, and others by the *Name* of *Kelly*; that on the *Saturday* after the Duke of *Marlborough*'s Funeral, the ſaid *Johnſon*, alias *Kelly*, gave her a Note for a Quarter's Rent he owed, which he ſigned *George Kelly*, which ſurpriſed her, becauſe the Name he owned before, was always *John* or *James Johnſon*; that when the ſaid *Johnſon*, alias *Kelly*, firſt took Lodgings at her Houſe, as is firſt abovementioned, the Lodgings not being quite ready, he ſaid, he would however take them from that Day, for he had Buſineſs called him into the Country, and he was abſent, as near as ſhe remembers, about a Month; that he was abſent from her Houſe another Time, and was at home again about the latter end of *April*; but what time he went, or how long he had been abſent, ſhe cannot recollect; that *Bingley*, now a Priſoner, lodged ſome time in her Houſe, during the time of the ſaid *Johnſon* alias *Kelly*'s being a Lodger there.

Margaret Kilburne.

Capt. Jurat. 31o. die Decembris, 1722. Coram me,

C. Delafaye.

E. 14. 15.

The Examination of John Malone, *Servant to Major* Sawyer.

WHo ſays, he has formerly lived with Mrs. *Barnes*, who lives in *Berry-Street* St. *James*'s, and came to be her Servant about laſt *Chriſtmas* was Twelve-Months, and was diſcharged from her Service about the middle of *May* laſt, that he very well knows Mr. *George Kelly*, that then went by the Name of *Johnſon*; that his ſaid Miſtreſs *Barnes*, whilſt he lived with her, uſed to ſend him every Morning to Mr. *Johnſon* aforeſaid, at his Lodgings in *Rider-Street*, when he was in Town, to bruſh his Clothes, and wait on him at Breakfaſt; that ſeveral Gentlemen uſed, while the Examinant was there, to come and ſee the ſaid Mr. *Johnſon*, alias *Kelly*, and ſome ſtayed and Breakfaſted with him; that the Names of ſuch of them as he remembers are, Mr. *James Talbot*, Mr. *Neynoe*, who was lately drowned attempting to make his Eſcape out of Cuſtody, Captain *Dennis Kelly*, who lived at the *Cockpit*, Mr. *Plunket*, who is now in Cuſtody, Mr. *Cart*, a Clergyman; there were others came, but the Examinant does not know their Names. That about a Month or two after the Examinant came to live with Mrs. *Barnes*, the ſaid Mr. *Johnſon*, alias *Kelly*, went out of Town, and ſtayed, as he believes, about a Month or two; that he went all that time by the Name of *Johnſon*, tho' the Examinant knew his Name was *Kelly*, having known him before in *Ireland*; that the Examinant never asked the Reaſon of his going by a fictitious Name, but imagin'd it to be on account of ſome Trouble the ſaid *Kelly* had had in *Ireland*;

land, as the Examinant had heard; the Examinant ſays, that the ſaid *Kelly* uſed frequently to dine with his ſaid Miſtreſs *Barnes*, and to paſs part of the Afternoon with her, drinking Tea, and playing at Cards with her; that the abovementioned *James Talbot* did ſometimes come and dine there with him, but no other Man that he can remember, except ſome Relations of the ſaid Mrs. *Barnes*.

John Malone.

Capt. & Jurat. 3 die Jan. 1722-23.
coram me

Ch. Delafaye.

The further Examination of John Malone.

WHO ſays, that Mr. *George Kelly*, mentioned in his former Examination, having been, as he believes, about a Month out of Town, came to Town in the middle of the Week, on a *Wedneſday* or *Thurſday* Morning, to the Examinant's then Miſtreſs *Barnes*, and preſently went to Bed, being much fatigued, and got up again by Dinner-Time, that he lay that Night, and one or two Nights more, at the ſaid Mrs. *Barnes*'s Houſe; that this happened a Fortnight or three Weeks before he was firſt diſcharged from Mrs. *Barnes*'s Service, which firſt diſcharging happened in the Beginning of *May* laſt.

John Malone.

Jurat. 5. die Jan. 1722-23.
coram me

Ch. Delafaye.

E. 16.

Paper of Directions taken out of Kelly's *Pocket*, May 19. 1722.

To *Anthony Saunders* Eſq; or Mr. *Joſhua Vernon*, at *Will*'s Coffee-Houſe, *Covent-Garden*, *London*.

To Mr. *James Baker*, or *Arthur Stephens* Eſq; at *Burton*'s Coffee-Houſe, in *King's-ſtreet*, near St. *James's*. *London*.

E. 17.

Copy of George Kelly's *Pocket Book, taken upon him by* Daniel Chandler, 23*d of* October 1722.

Page 1.

at Mrs. *Johnſon*'s
Sept. 21. 1722.
ne with w. on *Tueſday* [illegible]
the 4*th* of *Sept.* and recd. 50.

591.

went to Mrs. *H.* ō
Monday Oct. 1.

Page 2.

3 Guineas
1 Crown } to Mr. *Bingley*
4 Guineas

for Lady *Bellew* - - 1 5 0

Mon-

Monſr. *Kelly* à la Magdelene de
Trenel rue Charon fauxbourgh
St. Antoine.

Paraccianus
Aquaviva
Columna

Pd. Mr. *Bingley* 2 2 0
Pd. him for Mr. *Ca--t* 2 5 --

Page 3, 4, 5, 6 } Blank.

Page 7.

I was taken ō *Saturday May* 19.
Mr. K. was taken up on
Saturday the 28*th July*;
The Biſhop of *Rocheſter* ō
Friday 24 of *Auguſt* 1722.
Sr. H. G. went to F----- ō *Thurſday*
23. *Auguſt* 1722.

Xitat. ----- Clermont Grand lieu
Glat. ------ Diſode Bonneville
Stur. ----- Briſac Dupuy
Slau ----- Contade Lunell.

Page 8, 9, 10 } Blank.

Page 11

Rec'd for the Subſcription ----- 138. 15.

Left *Lon.* *Nov.* the 23. 1721. &
arived in *Paris* the *Wed.* after, and in *Lon.* 15 Days
Thurſday
after: Left *London* *Feb.*
22. arrived in *Paris* the
Monday after, & to *Lond.* the
8. of *April* 1722.

To inquire for Mr at
Wm. Bayſing at *Horn*
Dean Mr. C. -----

Page 12.

Pd. Mr. *D. Mon. March* 20.
9. a Clock 28. 9. a Clock. *Thurſday*
April the 13. one a Clock *Monday*
July the 10. 12 a Clock. *Octr.* the 1.
8. a Clock at Night
Pd. *Gore* of the 50 *l.* I owe him
5. 5.
14. 14.
3. 3.
8. 8.
4. 4.
2. 2.
10. 6.
Lent Mr. *Wogan* ---- 5. 5.
More ---- 5. 5.

E. 18.

Mr. Glaſcock *to Mr.* Kelly, Dublin 3d. March, 1721.

Directed, To Jo. Johnſon, *Eſq; at* Will's *Coffee-Houſe*, Covent-Garden, London.

Dublin, 3d March, 1721.

Dear Sir,

I Thank you for the Favour of your's of 21 *ult.* together with your Preſent therein, and the oftner you ſend me ſuch the better. I intend to wait on your Friend *Jefferis* in two Days, and that ſhe ſhall partake of what you mention'd and ſent. Pray by the next Hand ſend me what elſe you can. --- *Geo. Aylmer* is to be heard of at *Hamilton's* Coffee-Houſe, and I expect his returning ſoon, and you may ſend by him what you think proper, incloſed, --- Pray let *Chr.* know that I will be pleaſed to hear from him as often as he can, and forget me not to *Crow* and *Mc.* and let them know that our Friends where Mrs. *Jefferis* is are well, except her ſelf. I long to ſee Lord *Dillon's* Act, if our Friend was ſecure, it's happy he ſhould be in *Abr*------ Boſom. As to News, I have none, but that the breaking of our Natives out of our Troops allarm very much not only the Inferiours, but alſo Perſons of the beſt Diſtinction. God help our poor *Ireland!* We are like to be puniſhed for our Loyalty. I am,

Dear Sir,

Your moſt affectionate humble

Servant,

Fran. Glaſcock.

E. 19.

Depoſitions of Robert Clarke, Peter Thouvois, *and* John Lefebvre, *Clerks at the Poſt-Office.*

ROBERT *Clarke, Peter Thouvois,* and *John Le Febvre,* Gent. do jointly and ſeverally make Oath, that being at different Times employed to copy certain Letters ſtopt and opened at the General Poſt-Office, they have frequently obſerved Letters ſigned, ſome *Johnſon,* others *Hatfield,* others *J. J.* others G. *H.* others *Wilkins,* Copy of which Letters were taken by one or other of them, and tranſmitted to the Secretaries of State, particularly, a Letter ſigned, *James Johnſon,* to Monſieur *Gordon le Fils Banquier à Bologne Surmer,* dated 22d *April* 1722, and three Letters therein incloſed, one directed to Mr. *Jackſon,* dated 20*th* of *April* 1722, and ſigned 1378; another directed to Mr. *Muſgrave,* of the ſame Date, and ſigned T. *Illington*; the Third, directed to Mr. *Chivers,* of the ſame Date, ſigned T. *Jones*; which three laſt mentioned Letters were all in one Pacquet, directed to *Chivers.* And the Deponents being ſhewn the Writing hereunto annex'd, ſay, that to the beſt of their Knowledge and Belief, all the Letters abovementioned were written in the ſame Hand with the ſaid Writing; which they have now mark'd with the Initial Letters of their Names.

J. Lefebvre.
Peter Thouvois.
Robert Clarke.

Jurat. 24*o die Auguſt.* 1722.
Coram me,

Ch. Delafaye

THE

THE abovenamed Deponents *Robert Clarke*, *Peter Thouvois*, and *John Lefebvre*, being ſhewn two other Writings, hereunto annexed, and Signed by them with the initial Letters of their Names, do make Oath, That they verily believe the ſame to be of the ſame Hand-writing with the Letters and Writing mentioned in their former Depoſition abovewritten.

John Lefebvre.
Peter Thouvois.
Robert Clarke.

Jurat. 1. *die Jan.* 1722-23.
coram me

Ch. Delafaye.

Memorandum. The Papers mentioned in the foregoing Depoſitions were:

A Promiſſory Note, ſigned *Michael Birmingham*, to Mr. *George Kelly*, acknowledging to have received of him 150 *l.* for his Share of 300 *l. South-Sea* Third Subſcription, and that he will transfer the ſaid 150 *l.* Subſcription to him, dated 1 *Nov.* 1720. and aſſigned by *Kelly* to Mrs. *Barnes* 15 *Dec.* 1720.

A Letter dated from *Calais*, *March* 11. 1721. directed to Mrs. *Barnes*, at her Houſe facing the *Golden Head* in *Bury-ſtreet*, St. *James's*, *London*, and ſigned G. K.

Another Letter dated *Wedneſday* Morning, without Direction or Signing.

E. 20.

The further Examination of John Malone.

WHO having four ſeveral Papers ſhewn him, all which he has now mark'd, one purporting an Aſſignment of 150 *l. South-Sea* Subſcription, mentioned to belong to Mr. *George Kelly*, unto Mrs. *Barnes*, ſign'd *Ja. Johnſon*, and dated 15*th* of *Dec.* 1720: The other a Note without any Name, dated *Wedneſday* Morning: A third, dated *Calais*, *March* 11. 1721. ſigned G. K. and directed to Mrs. *Barnes*, at her Houſe, facing the *Golden Head* in *Berry-ſtreet*, St. *James's*, *London*; and the fourth dated *Aug.* 20. 1722. and unſigned, and directed *à Monſieur Maiſonneuve*: The Examinant ſays, that he has ſeen Mr. *George Kelly*, alias *Johnſon*, mentioned in his former Examinations, write, and that he does verily believe the four Papers abovementioned to be of the Hand-writing of the ſaid Mr. *George Kelly*, alias *Johnſon*.

Capt. & Jurat. 8 *die Jan.* 1722-23. *John Malone.*
coram me
Ch. Delafaye.

Memorandum. The Aſſignment, Note, and Letter to Mrs. *Barnes* abovementioned, are annexed to the Depoſitions of the Clerks of the Poſt-Office of the 24*th* of *Auguſt*, and 1*ſt* of *January* 1722.

E. 21.

Auguſt 20*th*, 1722.

A Monſieur Maiſonneuve under Cover à Monſieur Monſieur Waters Banquier, à Paris.

SIR,

I Received yours of the 21*ſt*. Your Couſins *Ireton* and *Wilkins* are both gone to the Country, and earneſtly beg the Favour of you not to write to them any more, for which you will ſoon know the Reaſons. A Perſon that I know, talks of going your Way in nine or ten Days; if he continues his Reſolution, you ſhall hear from me very particularly by him, being a very honeſt Man, and one worthy of your Acquaintance.

Our

Our State Priſoners are diſcharged, that is, bailed out, except the three in the Tower, whoſe Confinement I hear is ſtill very cloſe; Mr. *Kelly* is allowed a Phyſician, one Dr. *Friend* to viſit him, but no body elſe. There is 1000 *l.* Reward for one *Carte* a Nonjuring Clergyman, we have no other News.

I go to the Country this Day, for a few Days, and till you hear again from me, don't give yourſelf the Trouble of Writing: it being uncertain how long our Camps will continue, and when the Parliament will ſit; I can ſay nothing of them. My Reſpects as due, and my beſt Wiſhes attend you.

I make Oath that this Letter was ſtopt at the General Poſt-Office.

John Lefebvre.

Jurat. 1 *die Jan.* 1722. *coram me*

Ch. Delafaye.

WE make Oath, that we verily believe this Letter to be writen in the ſame Hand with divers Letters which have been opened at the General Poſt-Office ſince *March* laſt, and were ſigned ſome with the Name of *J. Johnſon*, others ſeverally with the Names or initial Letters of *Hatfield*, *J. J.* *G. H.* *Wilkins*.

Jurat. 1. *die Jan.* 1722.
coram me
Ch. Delafaye.

John Lefebvre.
Peter Thouvois.
Robert Clarke.

E. 22.

The Examination of Humphrey Bayley, *Servant to* Thomas Slaughter, *who keeps a Coffee-Houſe in St.* Martins-Lane, *in the Pariſh of St.* Martins in the Fields, *Middleſex.*

WHO ſays, that about three or four Months ago, a Perſon, whoſe Name the Examinant does not know, deſired of this Examinant, that if any Letters, or Foreign Letters (the Examinant is not poſitive which, but believes the latter) ſhould come directed to *Contade* or *Lunelle*, at the ſaid Coffee-Houſe, they ſhould be taken Care of, being for him the ſaid Perſon. That the ſaid Perſon call'd for ſuch Letters four or five Times afterwards, but none came. That the ſaid Perſon is a very well-looking Man with a brown Wig, having the Appearance of a Gentleman, and the Examinant verily believes he ſhould know him again, if he ſaw him. That the ſaid Perſon deſired of him what is above related, the firſt or ſecond Time he ever came to the ſaid Coffee-Houſe, that the Examinant knows of; and the Examinant does not know or believe, that the ſaid Perſon ever came oftner than five or ſix Times afterwards to the ſaid Coffee-Houſe, nor did the Examinant obſerve, that he did at ſuch Times converſe with any body, or ſeem to be acquainted with any other Perſon there.

Capt. & Jurat. 27 *die Octob.* 1722.
coram me
Ch. Delafaye.

Humphrey Bayley.

The further Examination of Humphrey Bayley.

WHO ſays, that ſince his former Examination, he has taken particular Notice, whether any Letters were brought to his Maſter *Slaughter's* Coffee-Houſe, directed to *Contade* or *Lunelle*, and whether the Gentleman who ſpoke to him to take in ſuch Letters, came again thither: But that no ſuch Letters have come to the ſaid Coffee-Houſe, and the ſaid Gentleman has not been there to his Knowledge ſince his ſaid former Examination.

Capt. & Jurat. 8 *die Jan.* 1722.
coram me
Ch. Delafaye.

Humphrey Bayley.

Pretender's

E 23.

Pretender's Declaration printed, ſent under Cover à Monſieur Monſieur Lunelle, *at* Slaughter's *Coffee-houſe, in* St. Martin's Lane, London.

E 24.

Mr. Le febvre's *Atteſtation*, 23*d* October, 1722.

To Mr. John Chambers, *Attorney at Law, at his Houſe at* Hatton Garden.

A Monſieur Contade, *at* Slaughter's *Coffee-Houſe, in* St. Martin's *Lane*, London.

TWO of the Pretender's Declarations were incloſed under blank Covers, as above directed, which came in by the *French* Mail, this 23d of *October*, 1722.

John Le febvre.

E 25.

Blank Cover, To Monſieur Monſieur Contade, *at* Slaughter's *Coffee-Houſe in St.* Martin's Lane, London ; *incloſed in Mr.* Le febvre's *Atteſtation of* 23*d* October, 1722.

E 26.

A Letter from Johnſon, *to* Gordon le Fils, 22 April, 1722.

London, April 22, 1722.

A Monſieur Gordon le Fils, *Banquier à* Boulogne ſur Mer.

I Ought to have thanked you before now for your Favours at *Boulogne*, but ſince I came hither have had very little Time that I could call my own.

There will a tall black Gentleman ſoon call upon you, whom you might probably have known in your Southern Voyage ; I muſt beg the Favour of you to deliver him the incloſed, and to tell him at the ſame Time, that I forbear writing to himſelf, or dividing the incloſed Letters as I promiſed, for Fear of ſwelling the Pacquet too much, but that I will ſoon preſent my Service to him. I hope there are ſome Steps taken about what we talked of, and I mentioned in the Letter I gave you for Mr. *Chivers*, becauſe hereafter it will be impracticable to traffick ſafely without it.

I ſhould be extremely glad of any Opportunity of returning your Civilities, and if I can be of any Service to you here, pray command me. Any Letters addreſſed to me at *Will*'s Coffee-Houſe, *Covent-Garden*, will come ſafe to

SIR,

Your Humble Servant,

Ja. Johnſon.

Alexander Gordon anſwers this Letter 29 *April* / 10 *May*

E 27.

Extract of a Letter from T. Jones, *to Mr.* Chivers, 20 April, 1722.

To Mr. Chivers.

April 20, 1722.

SIR,

I Ought to acknowledge in Form the ſeveral Papers I have ſucceſſively received from you, if I were capable at preſent of doing any Thing regularly, but indeed I am not, as *Hatfield* well knows, and why I am not.

T. Jones.

P. S.

P. S.

I have communicated the Copies of Mr. *Manfield's* and *Jacob's* Letters, which (beſides the G..... whereof they had a Copy, were the only ones of thoſe tranſmitted, that I was directed, or indeed thought proper ſo to do.

E 28.

Extract of a Letter from T. Illington, *to Mr.* Muſgrave.

April 20th, 1722.

To Mr. Muſgrave.

I Received from Mr. *Hatfield* (after a long Intermiſſion of ſuch Favours) a Letter, which was very welcome to me; I have alſo conſidered carefully, what he had to offer to me in particular, and entirely agree with what is propoſed; but my preſent ſad Circumſtances (of which he has already informed you) will not ſuffer me to be active ſoon.

T. Illington.

E 29.

Extract of a Letter from 1378. *to Mr.* Jackſon, *20th of* April, 1722.

April 20th, 1722.

To Mr. Jackſon, *under the Cover of Mr.* Gordonle Fills, a Bologne ſur Mer.

I Am ſorry to find by yours, which *Hatfield* brought, that you know our Circumſtances on this ſide ſo well. The Perſons concern'd, were to be, and ſhall always be, by me, treated tenderly, though nothing ſhall engage me to enter deep with them, for the future. I had taken this Reſolution before *Hatfield's* Return.

Sign'd 1378.

E 30.

From Ch. Quitwell, *to Mr.* Vernon, *Merchant.*

$\frac{21\ April,}{2\ May,}$ 1722.

To Mr. Joſhua Vernon, *Merchant, at* Will's Coffee-Houſe, *near* Covent-Garden.

THE inclos'd, which I am directed to ſend under your Cover, gives me Occaſion to make my Compliments on your ſafe Return from the Country: Your firſt Letter was very pleaſing to Mr. *Lane*, and he waits with much Impatience, for thoſe of *Monday*, hoping to receive more particular Accounts of his Bills, which he daily becomes more preſs'd for, the Proſpect of a good Vintage encreaſing by late Showers, which dropt here, and raiſe the Spirits of the Labourers; and it ſeems more plain, that on Advances of ready Money to ſupply preſent Wants, good Bargains may be propos'd.

I have not much to tell you of publick News, which remain ſtill in the Dark, between the Concluſion of an entire Peace, or new Breaches; but the Time draws near, by which this muſt be diſcovered, and this Situation ſhould be a ſtrong Motive for our Vintners to ſecure their Proviſions, before a Storm breaks out.

All Friends are perfectly well, and give you their kind Service. I'm told, the little Abbot is come back here, and ſome others of his Character. God bleſs the Town, &c.

Mr.

Mr. *Chivers* writes by this Poſt, a Note to Mr. *St. George*, whereof *Hubbert* ſhould be appriſed. He wrote by laſt to Mr. *Hatfield*. *Farmer* and *Family* are well. Mrs. *Hughs* became ſo very uneaſy that ſhe was diſmiſs'd, and is on Return. I am, my dear Friend, moſt ſincerely yours,

Ch. Quitwell.

Mr. *Chivers* adviſes, that the Money you mentioned in *Clynton's* Hands ſhould be equally divided betwen *Medley* and *Jackſon*, which is the eaſieſt Manner of dealing with the Doctor. *Adieu.*

We have no great Frequentation with *Humfrey*, becauſe of the Company he keeps.

E 31.

Ch. Quitwell, *to* Anthony Saunders, *Eſq*;

24 *April* / 5 *May* 1722.

To Anthony Saunders, *Eſq*; *at* Will's *Coffee-Houſe*, *near* Covent Garden, London.

My Dear Friend,

WHilſt I am waiting for your Poſt of Thurſday laſt, I will own with Thanks the Receipt of your Letter of the 16th, and give you all the Satisfaction I can of *Xoland's* Subject, on which Lady *Oneile* can be pretty eaſy. His Health is very good, and I find him very hearty, in a late Letter I had from him. Funds having fail'd to the *Swediſh* Partners of the *Madagaſcar* Company, they deferred the Journey to next *September*, and their chief Commander is come here in his Way to *Stockholm*, in Order to procure more Force of Ships, Men, Money, and other Goods neceſſary for the Enterprize; which at *Cadiz* they diſcovered to be more difficult than was at firſt imagined. Yet all the Cargo remains at *Cadiz*, till farther Orders: In mean Time they have Permiſſion to hire their Ships as they ſhall find Occaſion, for four Months, in Order to maintain their Crew. And as the *Spaniards* want ſuch for the Security of their Commere againſt the *Turks*, or for other Views, on which I do not pretend to decide, *Xoland* being Commander of a Frigate, cannot miſs earning his Bread; and hopes to repair all his Loſſes at the Expence of either *Turk* or *Imperial* Prize. He has taken ſuch an Affection to the Sea, that he has attain'd to much Perfection in it, and pretends to no leſs than to an Admiralty: He will have the Pleaſure of ſeeing *Charles* ſoon in thoſe Parts, who was call'd away to his Poſt, this with a Call given ſome of the *Germans* here, and very ſtrong Rumours of a Breach about *Tuſcany*, which are going about between Perſons of Rank, and of different Nations, give me Room to ſuſpect there will be a ſudden Flame before the Summer paſſes. The Story is, That the Emperor has match'd his Niece to the Prince of *Bavaria*, and agreed to give him the Inveſtiture of *Tuſcany*: The young Prince's Journey to *Florence* fortifies this Opinion, and the Uneaſineſs of *Spain*. A little Time will ſhew more of theſe Matters.

Your Friends *Gerrard* and *Glen* give you their moſt kind Service, and the latter his Thanks, for your Friendſhip in Reference to what he recommended. I have imparted to *Chivers* that Part of your Letter which regards *Illington's* myſterious one: He will, I preſume, let *Hatfield* know, how very kindly *Freeman* ſpoke of him in his laſt, which with other Matters I refer to himſelf. Pray my moſt kind Service, and *Gerrard's*, to our good Friend *Jemiſon*, to whom you'll pleaſe to impart the News I give you, as alſo to Mr. *Hubberts* and *Mackworth*, with my Compliments, without forgetting my good Friend *Thomas*.

Your Poſt is juſt come in with your Letter of the 19th *April*, whereof I will obſerve the Contents in Reference to *Hubberts*. The Packet from *Calais* is alſo come ſafe, with the Six promis'd by *Repney*, whereof the Application is as you know already made; it's ſtill ſo much to the *Fore* * and it's to be hoped the reſt will follow by Degrees. We don't queſtion the Willingneſs of our Friends to help poor Relations, and put them in a Way to earn their Bread. I can aſſure you they do all they can on their Part to be in Readineſs to put up Trade, when they have a reaſonable Beginning to work by.

* *Not legible in the Original.*

I

I ſend you a Letter put into my Care for your Acquaintance *Hatfield*, which I pray you will forward.

I will trouble you no more at preſent, depend upon it none is more ſincerely than I am, Yours, whilſt

Ch. Quitwell.

It is ſuppoſed that the above Letter comes from a Perſon at *Paris*, who about two Years ago, ſent over by the *French* Poſt, a great Number of the Pretender's Declarations, which were directed to moſt of the Nobility and Biſhops. He ſigns his Letters ſometimes *Howell*.

E 32.

918. To *Hatfield*.

$\frac{24\ April,}{5\ May.}$ 1722.

May 5th, 1722.

To Mr. Hatfield *under Mr.* Anthony Saunders *Cover.*

Sir,

I Had yours, of the 16th of *April*, by laſt Poſt, and nothing has pleaſed me ſo much a long while, as what you tell me of Mr. *Illington*'s Willingneſs and good Intentions to make up Matters with Mr. *Hacket*, I thinking it both their Intereſts, as well as for that of Mr. *Farmer*, and it will be a particular Satisfaction to me, to ſee theſe two Gentlemen well together, and I do not at all doubt, but Mr. *Hacket* will receive the Propoſal in the Way he ought, and meet him half Way, and come to Town immediately upon it, if he be in good Health.

I agree perfectly with Mr. *Illington*, that their making up, and being in concert together, ſhould be kept ſecret for ſome Time, of which, *Illington* is the beſt Judge. It has, and ſhall be ſo for me, except to Mr. *Cane* and Mr. *Farmer*, who, I underſtand, *Illington* agrees ſhould know it; and I have not ſo much as ſpoke of it to Mr. *Jodrell*, only as wiſhing ſuch a Thing would happen.

Mr. *Illington* would ſoon ſee how great a Deſire Mr. *Farmer* has for its being ſo, by a Letter *Jodrell* is to write to him, I believe, by this Poſt, and that *Jodrell* alſo thinks it ought to be, and wiſhes it much. By the Time you have this, Mr. *Illington* will, I ſuppoſe, have had an Anſwer from Mr. *Hacket*, and he will know beſt what is fitteſt to be ſaid, in anſwer to *Jodrell*, and alſo, when Mr. *Manfield* ſhould be acquainted with it, which *Cane* and I are reſolved to let him be the Doer of himſelf.

Pray my Compliments to Mr. *Illington*, in the kinded Manner, and I hope he has got the Letter I ſent you for him, the 28th.

The little Dog was ſent ten Days ago, and ordered to be delivered to you. The Lady and the little one would certainly return the Compliments was ſent them, had they known I was to write; but I thought it was better that ſhould not be done, than to tell them of my doing ſo.

I'll be very glad to hear from you ſometimes, and I can aſſure you, there is no Body, who has a juſter Eſteem of you, nor more your Friend and Servant than I. *Adieu.*

M...

918

Will not the Loſs of ſo able a Miniſter as Lord *Sunderland*, be of bad Conſequences to the King, and all of us, who wiſh well to the preſent happy Eſtabliſhment: I believe it will not be eaſy tho' to find one to replace him.

I am very glad that Mr. *Illington* will be ſo good to do for the Boy I recommended.

This Letter is anſwered by *Hatfield*, *May* 7th,
The Anſwer is directed to *Muſgrave*.

E 33.

John Gerrard, *to* Anthony Saunders, *Esq*; *at* Will's Coffee-House.

Paris, 28th *April*, *O. S.* / 9 *May*, 1722. *N. S.*

Dear Sir,

THE Poſt we expected Yeſterday from your Parts is not as yet come in, and I have little to tell you from hence; pray, if you ſee Mrs. *Hatfield*, aſk her if ſhe delivered my Letter to Miſs *Semple*, and deſire her to let me know her Opinion of that Girl; her Aunt *Hewitt* comes ſometimes to ſee my Uncle; but I can aſſure you, the latter is too cunning for her, and without it be common Civility, ſhe'll know but little of his Affairs. Mr. *Digby* deſires you'll write to him about his Relations in your Parts. I am, *&c.*

Jn. Gerrard.

J. J. anſwers this Letter 7th of *May*.
Therefore J. J. and *Saunders* are the ſame Perſon.

E 34.

Extract of a Letter from Gordon *to* Johnſon.

Boulogne, 29 *April*, / 10 *May*, 1722.

To Mr. James Johnſon,
at Will's *Coffee-Houſe*,
London.

SIR,

I Was extremely anxious to hear of your ſafe Arrival, which made me receive your Favours of 22 *April* with very great Pleaſure.

The Gentleman to whom you ſent me one incloſed, arrived here Wedneſday laſt, and did us the Favour to ſtay till Friday Morning. I delivered him what you ſent me, and I hope by this Time he has reach'd *Paris*.

I have, as yet, heard nothing about what we talked of, and anent which I wrote the ſame Day you parted, ſo I ſuppoſe it was not approved of. Since your Departure I had a Viſit from the Gentleman to whom you was recommended in this Town; he inquired for you, and that they had receiv'd a Letter about you. I do aſſure you, that he was very much out of Humour that you had not call'd for him, and ſeem'd to blame your going the Way you went very much; but the Knowledge I have of the Gentleman made his Uneaſineſs very indifferent to me.

The reſt of the Letter is not material; it is about ſome Body who wants to go from *London* to live cheap at *Boulogne*.

Alexander Gordon.

An Anſwer to *Johnſon's* Letter, 22d *April*, *O. S.*

E. 35.

J. H. to *Howel.*

A Mr. Waters Banquier,
pour faire tenir à Mr.
Howell, *à* Paris.

Monday, *April* 30th 1722.

I Received your's of the 5th of *May*, this Afternoon, with an incloſed, to which I will ſoon make Anſwer; which, pray let the Gentleman know that gave it to you, with my Compliments.

The Account you give of honeſt *Moore* will be very acceptable to his Mother. I wiſh his Chief may ſucceed in his Journey.

I ſaw Mr. *Hore* about an Hour ago, who is moſt impatient to have a more ſatisfactory Account from your Side, and hopes there may be room now to expect it, ſince there was 9 remitted by *Repney*, he will ſoon, as he tells me, ſend you two more, which, with the Twelve Thouſand Arms provided by *Mansfield's* Relation in ------ and are now ready to be ſent where-ever deſign'd, and paid for too, will, he hopes, bring Matters to ſome Proſpect of bearing. I aſked *Hore* if he had good Authority for this laſt Article; he aſſured me, that he ſaw a Letter to that Purpoſe from the Perſon who has them, and other Neceſſaries, of that Kind, in his Poſſeſſion, and that you were by this Time convinc'd of the Truth of it likewiſe.

I wiſh the ſending over his &c. Commiſſions, may not do more hurt than good, for that Affair is already become no Secret, and may pique ſome Friends, as well as put ill Wiſhers upon their Guard. I hear *Mansfield* continues ſtill upon the old String, that he can get no Officers.

Mrs. *Jones* died laſt Week, and when the Days of Mourning are over, he will, I hope, be fit for Buſineſs. Pray preſent my Reſpects to Mr. *Muſgrave*, and let him know, that I received the Preſent ſent by the young Lady, but in ſuch a bad Condition, that I am afraid he will never do well, for he had a Leg broken in his Journey, which is ſtill very bad with him; however, I will take all the Care imaginable of him, and inform Mr. *Jones* ſoon of it, to whom I know any Thing from that Quarter will be very acceptable.

I muſt now give you the News of the Town; on Saturday laſt, 'tis ſaid that Lord *Townſhend* went and broke open the late Lord *Sunderland*'s Papers, where he found, as the Report goes, a Letter of a late Date from the Pretender. Yeſterday being the late D. of *Ormond*'s Birth Day, there was an Account of 30 Sail of Ships being ſeen off the *Lands End*; and this Day we are told, that there is a ſtrange and horrid Plot diſcover'd; and, that one Col. *Hurſt* is ſent to *Holland* to bring over 6000 Forces. 'Tis now talked, that the Court have ſome Thoughts of deferring their Journey to *Hannover* this Summer.

Pray preſent my beſt Reſpects to Mr. *Chivers*, to whom I have nothing Material to ſay by this Poſt. I have been twice to wait upon Mr. *Cibber*, but both he and his Lady happen'd to be Abroad. *Hubber* ſhew'd me the Letter for him, which he is this Minute gone to deliver, and deſires me to make his Compliments to Mr. *Cane* and all other Friends, not being able to write himſelf by this Poſt. He deſires likewiſe, that you may hereafter direct to Mr. *Ormsby* at *Will's*; his Couſin *St. George* being gone to the Country.

I hope *Crow* is arrived with you before now. Pray return my kind Service to honeſt *Gerrard* and *Glan*, to whom I will ſoon write. I am, as always, my dear Friend, yours moſt ſincerely.

J. H.

Quitwell anſwers this Letter 20 *May*, N. S.

E 36.

The Information of John Collet, *of the Pariſh of St.* James's Weſtminſter. *Wine Cooper.*

WHO ſays, That having a Direction given him this Day was ſeven-night, of a Letter that would be left at *Burton's* Coffee-Houſe, the Corner of *King-Street*, St. *James's*, and being deſired to watch who ſhould take it, he went to that Coffee-Houſe about Nine in the Morning the ſame Day. That he waited there, and about One that Afternoon the Poſt Man (as the Informant takes him to be) brought into the ſaid Coffee-Houſe a Letter with the foremention'd Direction, which Direction, the Informant had an Opportunity of reading, by taking off of the Bar the ſaid Letter, and putting it down again in the ſame Place. In about a Quarter of an Hour afterwards a Perſon, now in Cuſtody (whoſe Name, the Informant has been told, is *Kelly*, alias *Johnſon*) came and took the Letter, open'd it, and read it; and went out of the Houſe with the Letter in his Pocket. The Informant follow'd him, and the ſaid *Kelly* went into Mrs. *Barnes's* Houſe in *Berry Street*. The Informant took particular Notice of him, and has ſeen him ſince ſeveral Times; particularly another Time going into the ſaid Houſe.

John Collet.

Jurat 21 *Die* Maii, 1722.
coram me,
Townſhend.

The further Information of John Collet.

Who ſays, the Direction of the Letter mentioned in his former Information, written on the other ſide, was to Mr. *James Baker*, Merchant, at *Burton's* Coffee-Houſe, in *King-Street*, *London*.

Jurat 10°. *Die Sept*ris. 1722. *John Collet.*
coram me,
Ch. Delafaye.

E 37.
Ch. Quitwell, *to* James Baker.

$\frac{7}{17}$ *May*, 1722.

To James Baker, *Merchant, at* Burton's *Coffee-House, near St.* James's.

Dear Sir,

I Am to return you many Thanks for the Accounts I have received by yours of the 23d of *April*, your Friend *Crow* is come ſafe, and deliver'd the three Books you gave him as directed. *Robinſon* ſent us a Factor here, with a Deſign of entring into the Bottom of *Cane*'s Correſpondence, and recommending him in the ſtrongeſt and cloſeſt Manner to his Friend *Barrington*, but I do not find any great Good he has obtain'd, at leaſt, there has been as yet, no Appearance of it, though ſome apprehended *Digby*'s Law Suit would be ſtreighten'd by it, the lattter apply'd to Mr. *Duſaux*, and other able Attornies, who promis'd their Advice upon Occaſion.

This Factor addreſs'd to *Motſield*, for Information of the Caſe, and was receiv'd in a moſt becoming Manner, which belies the Stories moſt wrongfully given on his Account; but this only to Mr. *Jones*, Falſhood will at length be confounded, and Truth may ſometimes annoy.

I believe we have a ſufficient Quantity of Barrils beſpoke for the Wine we intend to buy; thoſe for which *Irwell* bargained, will be ready by the end of *June*, we have a Promiſe of as many more of another ſide, and I hope *Clynton* and Partners has ſent *Malcolm* half the Money *Hore* ſaid he had to pay for the Barrils *Jacob*'s has at his Diſpoſal. It is their Buſineſs to mind that, but *Malcolm* complains of not receiving it.

As the Warehouſe, Mrs. *Evans* intends to build, is of a great Compaſs; Care muſt be taken to provide a Number of good Joyners; but there will be Money wanting to earneſt them. I have beſpoke a Merchant to ſecure ſome Birds for her, which I know ſhe loves; but ſhe muſt not begrudge paying for them in Hand: Let her therefore ſend a timely Credit for it, for this Merchant told me, he would not be ſubject to the Humours of any Lady.

Mr. *Jones* cannot take a better Time to have himſelf fitted with an eaſy Saddle, for we have here a Number of Sadlers idle, at preſent, who covet to get Work at an eaſy Rate; I cannot promiſe him it will hold long ſo, becauſe I hear the *French* talk of War, in which Caſe, all the Sadlers would be ſo buſy, that there would be no coming at 'em.

Pleaſe to excuſe my giving you the Trouble of all theſe Bagatelles, which I do not know how to diſcharge otherwiſe, you may give me your Commands in great, or ſmall, which I ſhall comply with, to the utmoſt of my Power, and am very ſincerely,

Dear Sir,
Your moſt affectionate
humble Servant,
Ch. Quitwell.

J. J. acknowledges the Receipt of this Letter in his, to *Gerrard* of the 7th *May*. *Hatfield* anſwers it the 10th *May*.

E 38.
Cane *to* Baker.

$\frac{2}{12}$ *May*, 1722.

To Mr. James Baker, *Merchant, at* Burton's *Coffee-Houſe*, King's-Street, *near* St. James's.

SIR,

I Am now to own the Favour of yours, dated the 23d *April*, O. S. As to *Humphrey*, and the other Matters you take Notice of, the Fault is committed, and a great one, but we muſt look forwards, and ſtrive to find out the leſs inconvenient Remedy.

I ſaw your Acquaintance *Crow* two Days ago, who delivered me a Preſent from my Couſin *Jones*. I am really very much concern'd for this Lady's ill State of Health, you know my ſincere Love and Eſteem for her, and pray aſſure her of my beſt Reſpects. I fear much that my own ſmall Concerns can ſcarcely be ſettled to Satisfaction, till ſhe is able to ſolicit in my Favour, and the more, that I ſee no great Harmony between thoſe who promiſed me their Aſſiſtance. I earneſtly

ly desire you will inquire without Delay, if my Aunt *Medley*'s Chaplain has receiv'd a Note, which Mr. *Hewitt* addreſs'd to him by the Poſt parted hence on Saturday laſt. There was an incloſed Bill which regards a Friend of mine, who ſtands in great Need of his Money. The Times are very hard, eſpecially in a foreign Country, without Reſource or Credit. Pray once more ask the Chaplain about this Matter from me, and return an Anſwer the ſooneſt you can.

It is true, I have forgot incloſing the Letter for Mr. *Cibber*, as you obſerve, but have ſent it the following Poſt, and deſired Mr. *Hubbert* to inform you. I had no News from the latter theſe ten Days paſt, I hope he is now quite well again. I am very ſincerely yours,

Cane.

Pray deliver the incloſed to Mr. *Jemiſon.*

J. J. anſwers this Letter, 7 *May, O. S.* and directs to Mr. *Chivers*, therefore *Cane* and *Chivers* are Names belonging to the ſame Perſon, as are *Baker* and *J. J.*

E 39.
Chitwood *to* Jemiſon.

$\frac{x}{14}$ *May*, 1722.

To Mr. Jemiſon, *under the Cover of Mr.* James Baker, *Merchant, at* Burton's *Coffee-Houſe, near* St. James's.

SIR,

I Am now in your Debt for two Letters, whereof the latter dated the 19th *April, O. S.*

You ſhall never have any Reaſon to doubt of my Eſteem and true Friendſhip, which ſhall not be wanting when Occaſion offers.

The Queſtions you ask cannot be well reſolved at preſent; but it is moſt certain that Mrs. *Freeman* intends to purſue her Law-Suit, and bring her Cauſe to a Trial the ſooneſt ſhe can, and I believe Mr. *Abel*'s Departure will be no Detriment to her Pretenſions. Lawyers on the Place are beſt Judges, and it is juſt their Advice ſhould be followed.

Pray when you ſee my Couſin *Rogers*, aſſure her of my beſt Reſpects, and how much I depend on her friendly and kind Offices in forwarding my Family Concerns, which have great Need of ſo good Aſſiſtance.

You ſhall hear from me again in a little Time, and do deſire the ſame Favour from you, when Leiſure permits. I am very ſincerely,

SIR,
Your moſt Obedient Humble Servant,
Chitwood.

E 40.
J. T. *to* Baker.

Written about 2d or 3d May, O. S.

To Mr. James Baker, *at* Burton's *Coffee-Houſe, in* King's-Street, *near* St. James's, London.

I Hope, my dear Friend, my Letter from *Bologne* got ſafe to you: I therein told you that Mr. *Gordon* gave me the Packet, which I now tell you I deliver'd ſafe a Monday Morning, as directed. The Perſon receiv'd me very obligingly, and was much more open to me than I expected. Then, and ſince, he let me know that he does not yet deſpair of doing his Buſineſs; but as he did not deſcend to Particulars, I did not think it proper to ask Queſtions: But this he has taken upon him, to excuſe to my Southern Friend, the Stay I am to make in this Country by his Advice. I endeavour'd to ſee the cautious little Man, but miſs'd of him; to Morrow I ſhall make another Attempt, and afterwards make more Viſits.——— I was received very kindly by Sir *Patrick*, who promiſes to write by the firſt Courier for a Renewal of my Congee, which no Body remembered to mind him of before; he don't queſtion to have it granted. Tho' he is to leave this Place, he goes to his Government, he ſays, and is to be ſucceeded by the D. of *Oſſuna*, who, it is thought, will make a long Stay here, becauſe his Lady is to follow him. There is a current Report here, that the Marquis *de Lede* is expected every Hour, if not already arrived, and that the Duke of *Berwick* is to meet him, and come with him, which cauſes a few Speculations. They talk of nothing but War, tho' no

Body

Body pretends to determine where or with whom it is to begin, but every Body I meet with ſeems to wiſh it ſoon.—— Remember me to our Friends in *Berry-ſtreet*, and to thoſe in the *Cock pit*, in the moſt grateful Manner. Mr. *G*..... Daughter here wants but little more to compleat her Happineſs: Him, Lord *Rellon*, whom I had the Honour to meet at *Dover*, is, I hope, got ſafe to her Love before now. Tell my Wife and her, that I pray you to make my Compliments to my quarrelling Siſter, and to aſſure her that I have not laughed much, nor flirted ſo much as once ſince I ſaw them.—— When you ſee my Friends in *Hanover-ſtreet*, give 'em my humble Service, and tell them, that *Nick* and *Charles* are both well in *Spain*. I ſhall long extremely to have you here, and hope your Buſineſs won't keep you from me much longer.

Be ſure you do not forget your Watch, nor if you come to *Dover*, to call for my Houſing-Caſe at the Poſt-Houſe. Write to me ſoon, and often, as I ſhall be ſure to do to you. I told you from *Bologne*, that I would write to you here of a certain Project propoſed by a Merchant there. I then thought it would not take, and now find that 'tis not worth your Reading, ſo let it go 'till we meet. Your Friends here are all well, as they are, I'm told, every where elſe. My Service to *Frank*, and others you think fit: Don't forget me to *Martha* and her Company. Adieu. I am as aſſuredly always, my dear Friend,

J. T.

This Letter is not dated, but was writ about the 2d or 3d of *May*, *O. S.* from *Paris*. It is from the tall black Man, who was to call on *Gordon*, at *Bologne*, for a Packet. He is call'd *Crow* in *Quitwell*'s Letter to *Barker*, (12 *May*, *N. S.*) he is probably ſome one that came directly from *Ormond*, or the Pretender, ſince *Quitwell* was to excuſe his Stay in *France* to his *Southern* Friend; and he was known to *Gordon* in his *Southern* Voyage. *Illington* writ by *Crow* to *Chivers*, and ſent Books. It is *James Talbot*.

E 41 a.
J. J. *to* Chivers.

To Mr. Chivers, *under the Cover of* Mr. Waters, *at* Paris.

Monday, *May* 7, 1722.

SIR,

I Received yours of the 13th Inſtant, with an incloſed for *Jemiſon*, which I have delivered. Mr. *Illington* is now in Town, and preſents his kind Service to you, but is afraid that he cannot be able to anſwer your Expectations, at leaſt for ſome Time, in which he wiſhes that *Hacket* may come, whoſe Aſſiſtance will be very neceſſary. Whether *Illington* has tried *Armſtrong* and his Friends I cannot tell, but I heard him ſay, that they are very cold in the Matter, which proceeds chiefly from the little Opinion they have of the preſent Proceedings: He is glad to hear that you received his Letters by *Crow*, and wiſhes his next may be more to your Satisfaction.

I had a long Diſcourſe with Mr. *Fox*, the other Night, which is the firſt Time that he has ſpoke to me, I believe, theſe ſix Months. It ſeems he has been very much diſobliged at Mr. *Chivers*'s ſending over a Letter of his to *Hore*, who gave an ill Turn to it, for which there was no Occaſion. When I heard that, I told *Fox* that Mr. *Chivers* had no ill Intention to him in doing of it, but that when *Hore* had not talk'd to him, *Fox*, as he, *Chivers*, directed, that Letter was returned by Way of a gentle Reproach to *Hore* for not doing it, and that I was ſure Mr. *Chivers* had ſtill the ſame Regard for him, and had never any Hand in laying him out of *Farmer*'s Buſineſs, as he *Fox* fancied. Upon this he ſeemed to be in very good Temper, and much pleaſed, and deſired me to aſſure you of his conſtant Reſpect; and, that there is nothing he deſires more, than to be well with you, which he ſays is intirely in your Power; and that as ſoon as you pleaſe to favour him with a Letter, that he will return you all the Aſſurances imaginable of his Attachment to you. And ſince he has had ſuch an ill grounded Jealouſy, I hope Mr. *Chivers* will remove it, ſince it may be ſo eaſily done, and that no Inconveniency can attend a private Friendſhip with him.

Mr. *Hore* is laid up in his old Diſtemper, and if he had been ſo for ſome Time paſt, I believe it would not be amiſs for himſelf and others, for *Farmer*'s Favours to him, &c. I hear, has given great Offence to ſome People; and *Jemiſon* ſays, that *Rogers* hearing of the Freedom which he and ſome of his Partners took with him in ſome Places here, is much diſobliged at it, and has order'd him, *Jemiſon*, to tell you ſo.

Mr. *Hubberts* is pretty well recovered, and received yours directed two Poſts ago to the *Coco-Tree*, but has not as yet got the one mention'd to be ſent to Mr. *St. George* by the ſame Poſt, which he is afraid is intercepted. I did not ſee him ſince laſt Night, and told me then that he would come this Day to you.

I called this Morning upon Mrs. *Medley*'s Chaplain, as you deſired, but he was gone Abroad. I left a Note for him, to which I have not as yet got any Anſwer, and conſequently can give you no Satisfaction as to what you deſire till next Poſt.

Hubberts ſhew'd me yours to Mr. *Cibber*, and as he intends to write to you about him,

him, I think it needleſs to ſay any Thing of him. Pleaſe to accept of my Reſpects, and believe me always, *Sir*,

Your moſt obedient, &c.

J. J.

This is an Anſwer to Mr. *Cane*'s Letter of the $\frac{2}{12}$ *May*, directed to Mr. *James Baker*, therefore *Cane* and *Chivers* are the ſame Perſon, and *Baker* and *J. J.*

E 41 b.
A Letter from J. J. *to* Gerrard.

Monday, May 7th, 1722.

To Mr. *Gerrard*,

I Received yours, my dear Friend, of the 4th Inſtant, and would have wrote oftner to you, were it not for the ſame Reaſon you mention, that I had but little to ſay, but I ſuppoſe it will not be ſo now on either ſide, ſince Wars are ſo much talk'd of, though I cannot find where they are to be; here we are already making our Preparations, for it is confidently ſaid, That we ſhall ſoon have a Camp near this City, whether to keep it in good Order, or with a View of ſending ſome of the Forces abroad, is uncertain, tho' the former ſeems moſt probable, becauſe I am told, that ſeveral Gunſmiths, and Sword Cutlers, who are thought to be diſaffected Perſons, are ſeized, and foreign Troops ſent for. This looks as if ſomething was apprehended at home, tho' for what Reaſon I can't imagine; ſince, if the Jacobites had any Spirit, or Deſign, of that kind, they would have ſhew'd it at the Elections. The Court have put off their Journey Abroad till next Month, and the Parliament is prorogued to the 5th of that too. We here look upon a War in *Italy* as certain, and 'tis ſaid, That Colonel *Churchill* is gone to offer both *France* and *Spain*, that if the latter will recede from its Demand, about giving up *Port Mahon* and *Gibraltar*, that *England* will either ſtand Neuter, or aſſiſt them with their Fleet in the *Mediterranean*. Others are ſent to *Vienna*, and Matters look on all Sides to be in ſome Confuſion.

I have not given your Letter to the little Boy, he being, as I hear, careſſed by Mrs. *Medley*'s Chaplain, and that Set, for which Reaſon I did not think fit to have any Dealing with him. I was, at firſt, ſurprized to hear, that they and others ſpoke very ill of *Motfield*, and took it for certain, that he had an Underſtanding with *Randford*; and to tell you the Truth, I was afraid that *Hubberts* might drop ſome Words of that kind, upon what the little Boy ſaid on that Side to you; but upon further Examination I find, that *Hubberts* never ſpoke of it, but that the Boy himſelf has told the others of it, and they having no great Love for *Motfield*, have ſpread it liberally about.

I am not ſurprized to find *Cane* ſo reſerved to *Humphrey*, conſidering the Company he keeps, which I am ſorry for upon *Humphrey*'s own Account, who is certainly a moſt honeſt Man.

Pray return my kind Service to *Quitwell*, and tell him, that I received his of the 12th, and will write to him by next Poſt. Do me the ſame Favour with *Crow* and *Collins*, and believe me always,

Your own moſt ſincerely,

J. J.

This is an Anſwer to *Gerrard*'s Letter of $\frac{28\ April.}{9\ May.}$ directed to Mr. *Saunders*, therefore *Saunders* and J. J. are Names belonging to the ſame Perſon.

E 42.
Hatfield to *Muſgrave.*

To Mr. Muſgrave *at* Paris, *under the Cover of Mr.* Waters. *May 7th*, 1722.

SIR,

I HAD the Favour of yours, which I communicated to Mr. *Jones*, who is come to Town only for a Day. He deſir'd me, this Morning, to make his Compliments to you, and let you know, That he has not, as yet, been able to take any Meaſures as to Mr. *Hacket*, and believes, that a Line from you or *Farmer* will bring him much ſooner to Town, than any Thing that he, *Jones*, can ſay, without which it will be impracticable for them to do Buſineſs together. His old Partners never viſit him now, which he's very much rejoiced at, eſpecially at this Juncture. He tells me, That he finds *Armſtrong* and his Company very loth to be any way concern'd, having no Opinion of the preſent Hands, and believes you are by this Time pretty much of that Sentiment too; however, that is ſtill neceſſary to make the moſt of them.

Mrs.

Mrs. *Illington* is in great Tribulation for poor *Harlequin*, who is in a bad Way, having ſlipp'd his Leg again, before it was throughly well; however, his Obligations to the Lady are as great as if he had come ſafe, which he deſires you to let her know.

Our Parliament is prorogued to the 5th of next Month, and the Court's Journey Abroad deferred till then too, and ſome ſay for good. They talk of having a Camp ſoon at *Blackheath*, and that ſeveral Gunſmiths and Cutlers are taken up in the City. Pleaſe to accept of my Reſpects, and believe me always with the greateſt Reſpect and Eſteem,

Sir, Your, &c.

G. Hatfield.

This is an Anſwer to the Letter, ſign'd 918, and dated *May* 5th, *N. S.* directed to *Hatfield.*

E 43.
Quitwell *to* James Baker.

To Mr. James Baker, *Merchant, at* Burton's *Coffee-Houſe, in* King-Street, *near St.* James's.

Wedneſday, 20th *May*, 1712.

Dear Sir,

YOurs of the 30th of *April*, which ſhould come by laſt Poſt, is come to Hand, but this Day Mr. *Cane* has ſeen the Particulars you give in reference to Mr. *Hore*; if this Poſt has not brought an Addition of Three to the Six, formerly come from *Repney*, the Affair ſtands in the ſame Point, which will be cleared in an Hour hence; you had in a former Letter of mine, all that can be ſaid on this Head, by which it is eaſy for Mrs *Jones* to ſee what is ſtill wanting for the Purchaſe ſhe intends to make.

I gave you an Account of Mr. *Crow's* being here, and much yours.—— In return to the News of your Town, which are ſtill on the ſame Foot of Uneaſineſs, the Rumours of this, continue ſtill for War about *Italy*, the Duke of *Berwick* arrives only about the End of the Month, theſe *French* treat all our People moſt inhumanly, about their Actions, all Lord *Londonderry's* are ſunk without any Regard, as ſuſpecting him to have lent his Name to Mr. *Law*; and I hear, all the reſt, though never ſo well proved, will hardly be allow'd a Third.

Mrs. *Chivers* gives you her kind Service, and prays you will condole in his Name, on the Death of Mrs. *Illington*.

I will execute your Commands towards *Muſgrave*, and *Glen*, I will ſay no more now, but that I am as always yours,

Ch. Quitwell.

This is an Anſwer to *J. H's* Letter of 30th of *April*.
G. H. anſwers this Letter 14th *May*.

E 44.
A Letter from Hatfield *to* Howel.

To Mr. Howell, *under Mr.* Waters's *Cover, at* Paris.

Thurſday, May 10th, 1722.

THis is to acknowledge the Favour of Yours of the 12th and 16th Inſtant, which were both open'd, but that you will ſay does not ſignify much, ſince we are no Treaſon-Brokers, which is now likely to prove but an indifferent Trade. On your ſide, you only talk of Wars, but here we are actually preparing from them. On *Monday* laſt, our Coffee-Houſes began to buz with the Noiſe of Camps, and the next Morning, moſt People were much alarm'd to ſee the Gaurds encamping in *Hyde Park*, and more Regiments ordered thither from the Country; another Camp is talk'd of on *Hounſlow Heath*, and a Third in *Salisbury Plain*; the Reaſon for all theſe, no Two agree in: Some ſay, 'tis a Plot of Lord *Sunderland's*, for bringing home the Pretender, which they diſcovered by his Papers; others ſay, that the Jacobites had concerted to make a ſudden Inſurrection, and that there will ſoon be 50 Warrants iſſued out for ſeizing their Leaders; but thoſe who think moſt cooly, take it to be a fine Stroke of Mr. *Walpole's* Policy, either to raiſe a Sum of Money, or have a Pretext to bring over foreign Forces, ſince the laſt Election ſhew'd ſo great a Spirit of Diſaffection, that there can be no Dependance on the *Engliſh* Loyalty. Be this as it will, the ill Effects have already ſufficiently appeared, for on *Tueſday* the Stocks fell 10 *per Cent.* and there has been ever ſince ſuch a Run upon the *Bank*, that if it holds a few Days longer, moſt People believe, they will ſhut up, and pay no Body. The City is in the greateſt Conſternation imaginable, and great Pains are taken to frighten People, but I don't hear that any, even of the Jacobite Party, have

have ſhewed the leaſt Fear, or kept out of the Way, which looks as if they had nothing to fear, this Myſtery will be ſoon revealed, and then we ſhall be wiſer. 'Tis ſaid, the Miniſtry would have the King put off his Journey this Smumer, but that he has abſolutely refus'd it, and intends to ſet out early in the next Month, and by that Time I believe the preſent Hurry will be all over. If you can then compaſs Barrels enough, the ſooner the Wine comes, I believe, the better; *Jones* promiſes to be a good Cuſtomer, but as he intends to go Shares with *Hacket*, I am afraid we ſhall not get much good of him, till the latter comes to Town. I am told that *Clinton*, and his Company, have already loſt their Spirit, and think it will turn to no account to deal this Way, which makes me believe they will hardly ſupply *Manfield* with Credit for that Purpoſe; but though the Court goes abroad, I don't queſtion but it will prove better this Summer than ever.

Pray preſent my Reſpects to Mr. *Digby*, and tell him, that I went to ask the Chaplain what he deſired me, who ſeemed to be much out of Humour, and told me, that *Hewit*'s Cargo came ſafe; but if any more of that kind was ſent, that he would never releaſe it, and therefore deſired to have none.

Hubberts has receiv'd his Letters that were miſſing, but all open, by which you may ſee, that Sir *Luke Schaub* is miſtaken, for you may depend upon it, that all the Letters that came theſe two laſt Poſts, from *France* and *Spain*, have been opened. And 'tis now talk'd, that the Diſcovery pretended, has been known by a Letter that was intercepted, either going to, or coming from the late *D.* of *Ormond*; but this you muſt take like the reſt, only for Coffee-Houſe News.

Mr. *Hare* is laid up, and ſo is *Jemiſon* in the Gout. I ſent *Mackworth* the Paper about his Actions. *Illington* is gone to the Country, and ſent me Word, that he would be in Town on *Tueſday* Night, when he has deſired to ſee me at a particular Hour, by which I conclude it may be about Buſineſs; I hope *Hacket* and he will give you the finiſhing Stroke.

Pray tell *Glan*, that when I ſee *Jones* next, I hope to know what can be done for the Boy at *Eaton*, and give him, and all other Friends my very humble Service. I am to ſup this Night with your Friend *Trotter*, who is much yours.

I ſend you this Days News Papers, which contain all that is agoing. My Reſpects, as uſual, conclude me,

Yours ſincerely,

Pray deliver the incloſed. J. Hatfield.

Which related only to Family Affairs.

This Letter is an Anſwer to *Quirwell*'s of the 12th of *May*, N. S.

E 45.

G. H. *to Mr.* Howel.

To Mr. Howel, *under Cover of Mr.* Waters, *at* Paris.

May 14th, 1722.

Dear Sir,

I Receiv'd your's of the 20th, with the incloſed, for *Jones*, and *Jemiſon*, which I will deliver; the former is ſtill in the Country, but has ſent me Word that he will be in Town to morrow.

I have very little beſides the Welfare of your Friends to acquaint you with, our warlike Preparations ſtill continue; for all the Horſe Guards, and ſome Dragoons, are now encamp'd, and a Train of Artillery was this Day brought from the *Tower*, which is doubly guarded, ſince the ſeizing of it was, they ſay, part of this Plot, and that another Part was to have been executed at *Briſtol*; I do not find any two Perſons agree about the Matter, or Manner of its being diſcovered; at firſt it was ſaid to be done by a Pardon, and ſome Letters from the Pretender, which were found among the late Lord *Sunderland*'s Papers. Now ſome ſay, that the Regent has informed them of it, and of ſome Applications made to him by the Lord *Lanſdown*, for which they talk of impeaching his Lordſhip, at the opening of the Seſſion; this Day, I hear ſome ſay, that the Lord *Mar* has been their Author; and others affirm, that the Lord *Craven* happening to get drunk one Night, with one Colonel *Parcel* (who was formerly a Footman to the Duke of *Ormond*) told him of this Plot, and a great many Particulars, and that the Colonel immediately informed the Court of it. I find ſome Streſs laid upon this, becauſe, it ſeems, the Fact is true, of his Lordſhip's getting drunk with the Colonel, who is a vile, vitious Fellow, and capable of any Thing; and if the Lord told him any Thing of this kind, he has certainly informed the Court of it. But the People in general will not believe that there is any ground at all for it, and is only a Pretext, either to bring over foreign Forces, or ſerve ſome other Political View; the Stocks have not yet got up, they began to riſe a little; but the Proclamation has thrown them down again; however, as the Foundation is believ'd to be groundleſs for this Alarm, ſo it is not doubted but a few Days will blow it over, and then we ſhall be all quiet again, and ſecure from Danger. Pleaſe to preſent my Reſpects, as uſual, and believe me always your's, moſt ſincerely. *G. H.*

I will ſend you, in a little Time, more of the Caſes you want. All the *Roman* Catholicks are to leave this Town by the 23d, and there is to be a general Search made this Night, for Arms and Horſes.

Suppoſed to be from the Perſon who ſigns *Hatfield*.

E 46.
A Letter to Mr. James Baker.

To Mr. James Baker, *Merchant, at* Burton's *Coffee-Houſe*, King-Street, *near St.* James's.

Saturday, 30th *May*, 1722.

SIR,

THE Poſt expected Yeſterday from your Parts is not yet arrived, or at leaſt the Letters not diſtributed. I am very impatient to have ſome poſitive Information about my Family Concerns, and indeed very uneaſy, for not receiving any. I have addreſſed frequently to Couſin *Hubberts*, but had no Account from him this great while, which makes me fear he is either in the Country, or his Health out of Order. Pray aſſure Mr. *Jones* of my beſt Reſpects. I'm aſſured by good Hands, that Mr. *Hacket* and he, are the moſt able to adjuſt my particular Concerns, and do not queſtion their good Diſpoſitions to do me what Service they can, and doing it timely will be a double Merit.

I am well perſwaded, that nothing will be wanting of your ſide to ſettle my ſmall Affairs in a ſatisfactory manner; and I have great Hopes that Col. *Churchill* will do me all the Service in his Power near Mr. *Walpole*, and other principal Friends.

I'll tire you no more at preſent, and am as uſually, very ſincerely yours. *Adieu*.

I ſhall not fail writing ſoon to Mr. *Fox*, as you recommended. We are told that all Letters are opened at your Poſt Office. Let whoſe will ſee this, ſo it reaches you afterwards.

This Letter is by the ſame Hand that ſigns, *Howell* and *Quirwell*.

E 47.
—— To Mr. Gerrard.

To Mr. Gerrard *under Mr.* Waters's *Cover at* Paris.

Monday, *June* 11th, 1722.

Dear Sir,

YOU have heard before now of our Couſin's late Misfortune, which was no ſmall Surprize to him, and ſtill continues to be ſo, becauſe he cannot fix from what Hand it came. And tho' there may be Reaſons to ſuſpect more than one; however, I find he intends to ſuſpend all Conjectures, till he has an Opportunity of ſending you the Particulars of his Caſe, by which you may make, perhaps, a better Judgment of it than he can, he was bailed laſt Thurſday, and the Judges were never known to be ſo ſincere in any Caſe of the kind before, eſpecially, ſince they did not pretend any particular Crimes, but only a general Suſpicion. I have talked a good deal to him ſince his Inlargement, and he tells me, that moſt of the Queſtions aſked him, were about a little Dog which he got from a Surgeon when laſt in *France*. They mention'd no Perſons to him but G. *Dillon*, and one Mr. *Morgan*: To the firſt he tells me, he is a little known, having carried over an Act of Parliament once to him, that concerned his Family, but the latter he never ſaw. Lord *Carteret* had a Liſt of five or ſix Cant Names, as he called them, which were *Illington*, *Jones*, *Cane*, *Howell*, *Quirwell*, and *Hacket*; and what your Couſin never heard of before, they wou'd, however, perſwade him, that he knew ſome Perſons that were meant by thoſe Names, which he vows to me he never did, and tells me, that whoſoever *Illington* is, he was the Perſon chiefly ſtruck at. I find him not at all ſatisfied with the Behaviour of his Friends. Your old Friend *Rig*, indeed, offer'd all that could be reaſonably expected of the poor Man; but others, in whoſe Power it was to do more, ſhew'd no Concern at all for his Misfortune, and after he was allowed the Liberty of Bail, he lay ten Days in the cloſeſt Confinement, without ſo much as a Meſſage from any of thoſe he depended moſt upon, and would, he believes, have done ſo ſince, were it not for two compaſſionate Perſons that were pick'd up by chance by a Countryman of his own. 'Tis well he had no Secrets to reveal, ſince ſuch Uſage might provoke a paſſionate Man; and the World is pretty well convinc'd that he had not, ſince no Perſons ſeemed to be in the leaſt apprehenſive that he could do them any Miſchief; but nothing, I believe, troubled him ſo much as an Anſwer, which a Perſon (whom you have eat and drank with pretty often) gave one that ſpoke to him in his Favour, which was, That it was no matter if Twenty ſuch People fell into the like Misfortune; and do believe you would hardly ſuſpect *Mc's*—— Fellow Traveller for ſuch an Expreſſion; and to confirm the Matter, he went out of Town (ſome ſay to viſit his Friend *Dixwell*) with-

without taking any farther Notice. This ſhews what the Friendſhip of ſome People is; but whilſt *there is one righteous Perſon*, we muſt for his ſake over-look greater Evils. I have now troubled you with a long Hiſtory of your Couſin's Misfortunes; and further can only tell you, that he is very well, and under no great Concern for any Thing as to himſelf, but the Expence which, I am afraid, cou'd not happen in a worſe Time; and to mend the Matter, has more than his own to anſwer.

Pray preſent my Reſpects as uſual, and when you write, direct under Cover for Mr. *Andrews*, at the *Dog* and *Duck* in St. *James's* Street. *Adieu.*

E 48.
------- *to* Crow.

To Mr. Crow, *under Mr.* Waters's *Cover, at* Paris.

18 *June*, 1722.

My Dear Friend,

YOur's of the 19th of *May*, came very lately to my Hands, the Reaſon of its Delay, and my Silence for ſome Time, I ſuppoſe you are no Stranger to, and therefore think it needleſs to make any Apology for the latter; all that I can tell you is, that I am very well, but ſomewhat poorer at preſent than you left me, tho' I am endeavouring to get wherewithal to ſend you ſome ſmall Supply, and were it not for the late Accident I ſhould have done it before now. From what Quarter that Blow came, I really cannot gueſs, and only wiſh that ſome who call themſelves Friends, may be free from it; and my greateſt Comfort is, that I am my ſelf the only Sufferer by it; and that I hope will not affect me long. I cannot indeed ſay much of any Friendſhip that I have met with from thoſe that I expected moſt from, but that will not ſurprize you. I am only concerned that I cannot ſee you before the latter End of *October* at the ſooneſt, on that Side, ſince I muſt appear in *Weſtminſter* the 1ſt of next Term, and wiſh you may change your Mind, and return before then. Your Friends at the *Cockpit* have Thoughts of viſiting you ſoon, your Wife being at laſt prevail'd upon to go with them; I will then write you a very long Letter, and, I hope, be able to ſend you ſome Money, which is ſtill very hard to be got here, but no Endeavours of mine ſhall be wanting that Way.

Pray give my kind Service to all Friends, particularly Sir *Jo.* and *Chriſty*; tell the latter that he muſt find out ſome other Addreſs for me to write by, ſince I have good Reaſons for not uſing the former; and which have prevented me from writing theſe ten Days paſt to him, and if it were to a *French* Perſon it would be ſo much the better.

In Return to your News, I can only tell you, that our Camps ſtill continue, and that the D. of *Marlborough* died laſt Saturday Morning. All your Friends on this Side are well, particularly your Female ones, and much your's.

Direct to me under Cover, to *David Wilkins*, at *Will*'s Coffee-Houſe: All Happineſs attend you, and ſo, my dear Friend, I bid you heartily *Adieu.*

The incloſed came to my Hands as you find it.

The incloſed mentioned above, is the Letter directed to *Dixwell*, of which there is a Copy; and it appears very plainly that both Letters are of the ſame Hand-Writing. Further we gueſs that the Perſon who has ſigned *Hatfield* in ſeveral Letters which have been copied, is the ſame Perſon who wrote theſe Letters.

E 49.
J. H. *to* Dixwell.

To Mr. Dixwell, *under the Cover of Mr.* Waters, *at* Paris.

Monday, June 18, 1722.

SIR,

I Wrote to *Gerrard* this Day ſevennight, and would have preſented my Reſpects to your ſelf much ſooner, were it not for that Curioſity which they have of opening Letters here; however, at all Hazards I am reſolved to ſend this, and let them make the moſt of it.

My own Situation, I believe, you are no Stranger to, ſince ſome Friends have given you an Account of it; the Occaſion of what happen'd I will lay at no Body's Door in particular, tho' your old Friend *Rig* ſeems to believe it has proceeded rather from ſome pretended Friend than any real Enemy; and as his Conjecture lies on this Side, you may eaſily gueſs the Point it tends to. 'Tis true there are ſome Reaſons for thinking as he does; but there is one Particular for which I ſuſpect your late Neighbour, and do indeed think it impoſſible it could come from any Body elſe; the Particulars of the whole I will tranſmit by the firſt ſafe Hand, and refer them to your own Deciſion. In the mean Time I muſt inform you, that it is abſolutely neceſſary to make no more Uſe of your preſent Account-Book, ſince thoſe who have got Part, may by the ſame Method have got the whole; and that it will be highly improper for me to meddle in any Buſineſs, at leaſt for ſome Time: All that lies in my Power will be only to deliver your Couſin *Rig* any Goods that you can ſend by private Hands, he is determined to receive them no other Way; and indeed I cannot ſay he is in the wrong. How far this late Affair may affect him, I cannot tell; and if your Buſineſs can be conveyed any other Way to him, you cannot do me a greater Favour; for to tell you the Truth, it is againſt my Opinion and Inclination to have any farther Dealing that Way. I am ſure you will not think that this

proceeds

proceeds either from any Change of Opinion, or Reſentment of the little Concern that has been ſhewn for me by them, but from a Conviction, that without changing both your Method and People, it will be impoſſible to make any Thing of it. Your Conſin that propoſes to ſee you ſoon, will convince you of this; by him I intend to ſend my own Caſe, and likewiſe Notice where I may be found when you have any Occaſion, ſince the late Expence which I have been at, will make it neceſſary for me to retire to ſome cheap Part of the Country, till the next Term comes on, at which Time I hope to be diſengaged from my preſent Reſtraint.

Mr. *H. Rig*, and *Rep.* are, I hear, in the Country, the reſt who are in Town are well, and I am told, very impatient to know the State of your Health, and wiſh it may be in your Power to mend it by a Change of Air, tho', I am afraid, they have no great Hopes that you can be able to do it.

The Duke of *Marlborough* died laſt Saturday Morning, which leaves Room for a Struggle about the Captain Generalſhip, tho' *Cadogan* it's thought will certainly have it. Our Camps ſtill continue, and how long they will do ſo is uncertain.

Your Correſpondents at *Will*'s and *Burton*'s are gone, and deſire you may write no more that Way, and when you do me that Favour, pleaſe to addreſs under Cover to Mr. *David Wilkins*, at *Will*'s Coffee Houſe, *Covent-Garden*, and not to *Andrew*'s, as I deſired. My Reſpects as due, conclude me,

SIR,

Your moſt obedient,
and obliged Servant,
J. H.

The ſooner you order a new Book to be made, and ſent over I believe the better.

E 50.

The Examination of Phillip Chareu, *of the Pariſh of* St. James's Weſtminſter, *Victualler.*

WHO ſays, That he keeps an Alehouſe in St. *James's-Street*, known by the Sign of the Dog and Duck; that about Three Months ago, one *Andrews* (who then frequented his ſaid Houſe, and as the Examinant has heard, was formerly a Woodmonger, but broke, and had been in the Mint) deſired of the Examinant, that if any Letters came by the foreign Poſt for him the ſaid *Andrews*, directed to this Examinant's Houſe, he ſhould take them in. That accordingly in about a Week after a Letter thus directed did come, which the Examinant took in, and delivered to the ſaid *Andrews*, who repaid him the Poſtage thereof, which was Twenty Pence. That not long after a Letter Carrier brought Three Letters, directed to *Andrews*, at the Dog and Duck in *King-Street*, which the Examinant would not receive; but the ſaid *Andrews* (having Notice thereof from ſome Body that frequents the ſaid Houſe, as the Examinant believes) came to the Examinant, deſired he would receive them, and paid him the Poſtage beforehand; and the Letter-Carrier bringing the ſame Letters again the next Day, the ſaid *Andrews*, who happened to be in the ſaid Houſe, received them. That about a Fortnight or Three Weeks after this, a fifth Letter came for the ſaid *Andrews*, directed to the Examinant's Houſe, but the Examinant would not take it in, being unwilling to diſburſe Money for the ſaid *Andrews*, and the Letter-Carrier took the ſaid Letter away with him, and the Examinant knows not what became of it.

Phillip Chareu.

Jurat 26° die Oct. 1722.
coram me, Ch. Delafaye.

E 51.

The Examination of Mathew Andrews, *living at Mr.* Auſten's, *in* Dove-Court, Lombard-Street, London, *Merchant.*

WHO ſays, That above Six Months ago he frequented the Dog and Duck Alehouſe, in St. *James's-Street*, and that ſome Letters were directed thither for him, but that he did not open them, being for Mr. *Johnſon*, alias *Kelly*, who had deſired him to receive ſuch Letters for him. That being under Misfortunes, the ſaid *Johnſon*, alias *Kelly*, was kind to him, and employ'd him ſome Times. That this Examinant received in the whole four or five Letters for the ſaid *Johnſon*, alias *Kelly*, who gave him Money to pay the Poſtage. That he was brought acquainted with the ſaid *Johnſon*, alias *Kelly*, by one *Bingley*, who lodged in the ſame Houſe in *Ryder-Street*, with the ſaid *Johnſon*, alias *Kelly*. That the Examinant has ſeen Mr. *Macnemarra* ſometimes in Company with him. The Examinant ſays, that to the beſt of his Remembrance the Letters abovementioned came in the Months of *July*, *Auguſt*, and *September* laſt, and were charged Poſtage as foreign Letters. That he never knew the Contents of them, but always delivered them unopened to the ſaid *Johnſon*, alias *Kelly*, and that he never wrote any Letter to any Perſon beyond Sea, named *Maiſonneure*, or going under that or the like Name. The Examinant further ſays, that ſome of the Letters abovementioned were directed to him at the Dog and Duck in *King-Street*, which Miſtake occaſioned their coming to Hand later than they ſhould have done, but that they were afterwards brought to the Sign of the Dog and Duck in *St. James's-Street* firſt abovementioned, where this Examinant received them. The Examinant ſays, that one *Murtogh* lodged in the ſame Houſe in *Ryder-Street*, with the ſaid *Johnſon*, alias *Kelly*, at the Time that the Examinant was employed as abovementioned by him to receive his Letters. That he remembers a ſhort Man enquiring for the ſaid *Johnſon*, alias *Kelly*, ſometimes at his Lodging, and he believes his Name is *Plunket*.

Mat. Andrews.

Capt' & Jurat 12° die Jan. 172$\frac{2}{3}$.
coram me, Ch. Delafaye.

E 52.
—— to Ireton.

To Mr. Ireton, *under Mr.* Andrew's *Cover, at the* Dog *and* Duck *in St.* James's Street, *London.*

Wedneſday, 1ſt July, 1722.

SIR,

I Peruſed your Letter to Mr. *Gerrard* of the 11th *June, O. S.* wherein you give him a brief Account of his Couſin's late Misfortune. I muſt own I was, and am ſtill extremely ſuprized at ſome Particulars you mention, but ſhall ſuſpend my Judgment on that, and other Matters, till better inform'd. You know my true Concern for a Friend who was always dear to me; I can with Truth aſſure, That no Event whatſoever ſhall be able to make the leaſt Alteration in my ſincere Friendſhip for him; and do hope a little Time will ſhew, that want of Gratitude (which I highly diſapprove in others) is none of my Fault.

You may be ſure I ſhall be very impatient to hear from you, and do deſire your Letters hereafter may be addreſſed to Mr. *Digby*, who will take due Care to convey them ſafely to me: It is the beſt Addreſs in all Reſpects, pray make uſe of it.

My kind Service to Friends in your Parts, and moſt particularly to my Couſin *Rig*, who is a Lady I honour and eſteem more than I can expreſs.

I'll trouble you no more at this Time, and you ſhall hear ſoon again from me.

Adieu.

Not ſign'd, but ſuppos'd to be from the Perſon who often ſigns,

Quitwell.

E 53.
Anonymous Letter to Mr. Wilkins.

To Mr. David Wilkins, *at* Will's *Coffee-Houſe* near *Covent Garden, London.*

Paris, July 8th, 1722.

My dear Friend,

IT was with inexpreſſible Pleaſure I received yours of the 18th of *June*; nor had I leſs, ſome Time before, to hear from others, that you were ſo happily recover'd of your late Indiſpoſition, which I was in no ſmall Apprehenſion you wou'd have linger'd much longer under. There is another Thing too I would congratulate you upon, did I not count my ſelf too much a Party in every Thing that relates to you; and I more expect to receive the Compliments of our Friends upon it, as I already have of ſome, than I think of making any to you. My dear *Wilkins*, how I long to have you in my Arms; I think I never did more to embrace a Miſtreſs I had long purſued. You will, I anſwer, but that when I ſhall ſee you, I may fancy my ſelf of a better Climate, and put you hard to it to defend your Virtue from the Raptures I ſhall be in. Tho' 'tis a long Time that I've had but an indifferent Opinion of moſt of Mankind, yet I cannot help being a good deal ſurprized, that you ſhould at this Juncture have any reaſon to complain of want of Friends.

I ſhall long extremely for the long Letter you promiſe, and beg you'll give me ſome Hint in it of theſe Gent and a little too of thoſe you ſuſpect of the other good natur'd Action; both, I aſſure you, ſhall be as great a Secret as you pleaſe, and as long; and I deſire it for no other Reaſon, but to prevent the wrong Judgments I may make while I am left to gueſs.

I am much more concerned, I aſſure you, for the want of Money upon your own Account, than for any Inconvenience it may be to me; and I beg, that your Deſign of ſupplying me may not make you precipitate any Thing that you may hereafter repent; for as I have lived in the Country above this Month paſt, and deſign to return thither again in two or three Days at fartheſt, I ſhall have but little Occaſion for Money for ſome Time, eſpecially if the Congeé for three Months, which the Knight here writ for ſome Time ago, be granted me. I muſt not forget to tell you, that if I had not come to Town, and call'd for your Letter, a Sunday Morning, it would have been ſent to another Gentleman of my Name, therefore, for the future, don't forget the good old *Engliſh* Way, of writing the Chriſtian, as well as the Sirname, by which ſuch Miſtakes will be avoided. In a Poſtſcript you mention'd an incloſ'd for me, but you forgot it in making up the Letter, which I'm glad of, becauſe I hope it will bring me another from you by next Poſt. 'Tis an ill Wind, they ſay, that blows no Body good. I can, without the Help of your D—e, gueſs from what Point it blew, when my Wife conſented to make me a Viſit.

Is it true, I pray, what one of your *London Journals* ſays, that her Siſter is married to a Lord, whoſe Name I forgot; if it be, pray make her my Compliments upon it; or, if you don't like your Commiſſion, intreat my Wife or Daughter to do it, to both whom, the young Ladies, your own, the Ladies in *Hanover Street*, and our Men Acquaintance, give my humble Service, and don't forget me to my *Martha*. I made your Compliments, and deliver'd your Meſſage to *Chriſ.* who will obſerve your Directions, and allows of your Excuſe. If you can tell any Thing of our Caſe, do, for I have not heard of, nor from her, of an Age. *Adieu.* I am as much yours as ever, but cannot be more do what you will.

This Letter is ſuppoſed to be for the Perſon who has ſign'd his Letters by the Name of *Hatfield*, and is taken to be *Johnſon*, the Perſon lately in Cuſtody, who in a Letter (of which a Copy was taken) deſired to be directed to by the Name of *Wilkins* as above.

E. 54.

Wednesday 8th *July* 1722.

A Letter to Mr. Ireton, *under Cover, to Mr.* Andrews *at the* Dog *and* Duck *in* King-Street, London.

SIR,

YOUR last to *Chitwood* came safe, and what you recommended in Reference to the Book of Accounts, will be observed. Mr. *Forrester* had the same Advice given to him and *Mansfield*, who by last express'd much Concern for what befel to Mrs. *Hatfield* and great Impatience for News of her Recovery; I wish we could be as sure of all our other Correspondents, as of him; by next it will come to *Forrester*'s Turn to tell his Mind on that Subject, which you shall be informed of; in the mean time, be pleased to give a more particular Account of Mrs. *Hatfield*'s Case, and what is wanting to her to pay off the Doctors and Apothecaries: This I pray you will let me know *per* next.

The French Merchants Address, which you want, as you mentioned to Mr. *Crow*, is as follows:

A Mons. Maisonneuve *chez Mr.* Waters, *Banq; rue Christine à* Paris.

This Mr. *Maisonnuve* goes often out of Town, to *Lyons* and other Places, so left his Direction with *Waters*, who is his Correspondent, to forward his Letters; please to send Word to your Friend *Xoland*'s Mother, that he is arrived safe from his Travels, that I expect him here soon, and will give him her last Letter; I cannot till then make her any positive Return about Actions here; it's hoped by Sir *Luke Schaub*'s Means our Country People will have better Usage; Mr. *Gage*'s Thousand Actions, I'm told, are all annulled.—— It's feared Lady *Mary* will not have much better Usage, which is bad for her Creditors.

Give my kind Service to Mr. *Mackworth*, I wish he could think of what I proposed about his Son, which may be easier done there, I presume, than else-where,

We have not a Word by last, from any Body but *Ja. Rogers*, pray what is become of Mr. *Jemison*. I will conclude with the kind Service of all Friends to you and yours I am, dear Sir,

Your most faithful humble Servant,
Char. Querry.

E. 55.

June 28*th*. 1722.

A Letter to Mr. Crow, *at Mr.* Digby's, *under Mr.* Daniel Arthur's *Cover, at* Paris.

My dear Friend,

I Wrote to you some Posts ago, and at that time really expected to be able to send you some Money soon, for before the late Accident, our Friend in *Bury-Street* was promised as much as would supply both our Wants, by a Relation of her own, which Relation (since that happened) is grown so cautious and fearful of losing his Money (not knowing what may be the Event even as to herself) that he last Night absolutely refus'd lending it till he saw her cleared from this matter; nothing could happen more unlucky, either as to her and me, at this Juncture, and since we were acquainted, I am sure Matters were never so bad with us, for those that owe her Money will not pay it, and borrow is *impossible*; and tho' it has already cost betwixt us above Fifty Pounds, and will, I am afraid, a great deal more, before we can get clear of it, yet I do aver it to you, that no Person living ever offered me Six-pence towards it, or so much as ask'd me if I wanted; and to tell you the Truth, if our Friend *Frank* had not gone about and exerted what little Interest he had (which I shall ever acknowledge) I should have lain in Confinement during my Creditors Pleasure: This Treatment has entirely cured me of ever dealing that way, at least with those in this part of the World; they have indeed been pleased to say a Thousand fine Things to me and of me; but Words you know are cheap, and I never found them very liberal of any thing else; if I had or could any way raise Money, their Behaviour should never give me the least Concern, tho' even in that Case I think they might have the Goodness to ask if I wanted, and to

 tell

tell them that I do, is what I never ſhall; and to tell you the Truth, my own Wants do not give me half the Concern that the Thoughts of yours do, becauſe here we can make a Shift for the common Neceſſaries of Life, which is more than you can do on that Side; and your Stock, I know, muſt be by this Time exhauſted, and how to relieve you ſoon, is what I am now at a loſs for, tho' you may be aſſured that I will leave no Means untried to do it.

Thus, my dear Friend, Matters ſtand at this Juncture with me, which I could not conceal or diſguiſe from you, both to clear my ſelf as to your own particular Diſappointment, and to let you know and ſee what juſt Reaſons I have for declining any farther Traffick with the Merchants here; tho' I muſt own, I am not much diſappointed in them, and only ſurpriſed, that for their own ſakes they would not behave otherwiſe, for they may perhaps fall into worſe Hands.

Therefore, if you perceive no likelihood of a ſudden Change for the better, my Reſolution is, to retire to ſome cheap Part of the Country, till I can get over my preſent Difficulties; but before I do ſo, I could wiſh you would take a proper Occaſion of repreſenting my Reaſons for it to Mr. *Digby*, whom I ſuppoſe you ſee pretty often, for I would by no Means do any thing that ſhould in the leaſt diſoblige him; and as nothing ſhall ever alter my Attachment to himſelf, I ſhall always be ready to attend any private Commands that relate to his own Affairs, and think all I am Maſter of but too ſmall an Acknowledgment for his conſtant Friendſhip to me, and if I were in a Condition to bear the Weight of publick Buſineſs, he ſhould never be at the Trouble of employing another, but that I cannot pretend to, and am heartily concerned he had done it himſelf ſo long, eſpecially for People who (if they had the leaſt Honour or Gratitude) would have conſidered him in the firſt Place, I mean thoſe on this Side; if another Sett had ſuch a Perſon to manage for them, they would think nothing too good for him. As to my ſelf, I never indeed propoſed to be the leaſt Expence to them upon my own private Account; but publick-ones of this Nature, are what I think they ought to take care of, ſince they are beſt able to do it, and expect the beſt Return for it. I write this Letter in the worſt Humohr that I ever was in; and tho' I can or would make no Secret of my Ails to you or Friends on that Side. I would not have any People on this know them, becauſe it would look like asking for what I never will.

I have now tired both you and my ſelf, and will ſay no more, but intreat the Favour of you to make my Reſpects acceptable in the moſt particular manner to Mr. *Digby*, and thoſe of his Fraternity that you think proper. Pray remember me kindly to Sir *Jo.* and *Chriſty*, and tell the latter, that he will ſoon receive a long Letter from me, and in that, my Reaſons for not writing to him ſince my Recovery.

Tho' I mentioned the incloſed in my laſt, yet I forgot to ſend it, it came to my Hands as you ſee.

All your Friends on this Side are well, except thoſe at the *Cock-pit*; the young one is in a bad Way, and has ſpit Blood within theſe two Days; again, the Mother is not very well, and Father complaining: However, they talk of moving ſoon your Way, and one of their greateſt Hopes and Comforts is, that they may overtake you.

Poor Mrs. *Jefferies*, I hear, is in a bad Way too, which I am ſorry for. When you write, direct to *David Wilkins*, at *Will's Coffee-Houſe*. I wiſh I may be in a better Temper when I write next, and ſo, my dear Friend, I bid you heartily adieu.

If you think ſoon of Home, pray adverti ſe me in Time of it, becauſe I am in ſuch a Caſe reſolved to ſee you, and I need not be here till the latter End of *October*.

[Not Signed.]

There was incloſed in his Letter, one directed to James Talbot *Eſq; at the* Cocoa-Tree *in* Pall-mall, London, *which came from* Ireland, *relating to an Eſtate there.*

A Let-

July 15, 1722.

A Letter from Querry *to Mr.* Ireton, *under the Cover of Mr.* Andrews, *at the* Dog *and* Duck *in* King-Street, London.

Dear SIR,

IT is no ſmall Surprize to me, that ſo many Poſts have paſt without a Word of any kind from any of our Correſpondents in your Parts, as if they were all of a ſudden dead: Mr. *Chitwood* is very impatient upon it; for tho' Buſineſs ſhould not offer frequently, a Word of Aſſurance that Friends are well would be comfortable; He wrote to Mrs. *Hubberts*, to Mrs. *Thomas*, and to *Hatfield*, but none has owned the receiving his Letters; he intended to ſend this Letter by this Poſt, a Letter of Credit which he has in his Hands for the Uſe of ſaid *Hatfield*; but on Deficiency of an Anſwer from him by this Poſt, *Chitwood* concluded to wait an Account from him, leaſt by Removal into the Country, or any other Accident, the Letter of Credit ſhould be loſt or miſcarry'd; but as ſoon as he hears from him, the ſaid Letter will be ſent, and I fancy it is drawn upon Mr. *Harrold*, ſo pray be ſo kind as to advertiſe Mr. *Hatfield* of the Matter.

As to Mr. *Thomas*, I conclude he is in the Country, and am very dubious. Mrs. *Herbins* has been punctual in ſending him his Letters, tho' they be of no great Conſequence. Our Neighbour Mr. *Hays* parted ſo ſuddenly, that I had not Leiſure to write by him to any of my Friends. We are as deadiſh here in Point of News as you are your ſelves; it is whiſper'd, That a Match is on foot between the Regent's Son and the King of *Portugal*'s Daughter, which the Politicians ſay, bears a double Aſpect, for or againſt *Spain* on Occaſion. I never remember to have ſeen Trade ſo dull of all Sides, but its impoſſible that can hold.

I will trouble you no more at preſent; Mr. *Chitwood* is much Your's, and ſo is

My dear Friend,
Your moſt faithful humble Servant,
Ch. Querry.

Before I ſhut my Letter, your's for *Crow* came to hand, but he is not far off in the Country; pleaſe to tell Mr. *Thomas* that his for *Digby* of the 28th came ſafe, which he will anſwer by next.

Be ſo kind as to take Notice where Mr. *Jemiſon* is, and his Addreſs, which is wanted by a Friend of his in theſe Parts.

E. 57.

Wedneſday, July 22d, 1722.

A Letter from Querry *to Mr.* Ireton, *under the Cover of Mr.* Andrews *at the* Dog *and* Duck *in* King-ſtreet, London.

Dear SIR,

AS we have no Account whether Mrs. *Ireton* has as yet receiv'd any of the Notes ſent her by Mr. *Andrew*'s Hands, it was not thought adviſable to ſend her a Letter of Credit, which her Couſin *Digby* has ordered to be drawn in her Favour, and waits only her Acknowledgment for what paſſed by ſaid *Andrew*'s Means to diſpatch it. Your Letters of *Thurſday* laſt are expected every Moment; if they clear this Doubt Mrs. *Ireton* may by next receive her Letter of Credit. A Letter come by laſt Poſt from Mr. *Hubberts*, adds to Mr. *Digby*'s Precaution, by ſaying, That Mrs. *Ireton* received no late Account from her Couſin *Digby*, tho' ſhe ſhould have done it from him, and from me by his Directions. This is what I have ſeen from Dr. *Freeman* on the Subject of your Couſin *Hauksby*'s firſt Operation in his late violent Diſtemper.

Hauksby's ſteady and reſolute Behaviour in the Operation anſwers the good Opinion I have long had of him; I'm fully perſwaded that all the Surgeons will do hereafter, ſhall not be able to alter his Temper, and I hope he will come off with Patience and a ſhort Confinement, by which his Health will become more perfect and ſatisfactory to his Friends.

Mrs. *Malcolm*, in her ſhort way of Expreſſion, ſays, I'm truly glad that honeſt *Hauksby* is recovered, for I take him to be a very valuable Man. I know theſe Compliments will be comfortable to a ſick Perſon from his Friends, for which Reaſon I trouble you with them, as a Proof of my Attention towards one I wiſh ſo well.

As

E. 57.

As I am upon regulating by Book of Accounts, I ſhould be glad to know whether Mr. *Hatfield* and Mr. *Jemiſon* have thoſe by 'em, which we rectifyed together, becauſe I ſhould have ſome Meaſures to take in that Reſpect.

I ſhall not trouble you much about News from theſe Parts: I thank God all Appearances of War are gone into ſuch remote Parts from us, that we need not fear much any new Troubles; Providence has given Occupation to the Czar, who makes a Trade of promoting Miſchief, and I obſerve of all Hands the Powers are intent upon promoting Trade and Quiet, if ſome unlucky Accident does not happen to diſturb 'em, which ſtill is to be feared, whilſt the Congreſs remains in Suſpenſe.

Mr. *Crow* has receiv'd your Letter in the Country, where he paſſes moſt of his Time; *Xoland* is lately come to Town, what can be done about his Mother's Concerns, will be cloſely followed. *Charles* writes to me from *Medley*'s Houſe, where he is come ſafe to ſollicit for a good Part of his Wages that's due to him.

The Letters of *Thurſday* are come in, and as there is not a Word from Mrs. *Ireton*, Mr. *Digby*'s Suſpicions on Mr. *Andrews*'s Subject increaſes, however, I will commit him this for want of better.

Pleaſe to tell Mr. *Hatfield*, That Mr. *Maiſonneuve* is lodged *chez pery Baigneur rue des petits* Auguſtins. I know *Hatfield* has an Affair of a long ſtanding with this Merchant.

I am, after many kind Services to Mrs. *Ireton*, moſt truly and ſincerely Yours,

Charles Querry.

Mr. *Xoland* writes to his Mother by this Poſt, Tell Mr. *Thomas*, That his Letter of the 4th is juſt come, and give him mine and Mr. *Chitwood*'s Service.

E. 58.

July the 28th, 1722.

A Letter from Charles Querry, *to Mr.* David Wilkins, *at* Will's *Coffee-Houſe near* Covent-Garden, London.

SIR,

I muſt conclude Mr. *Andrews* has not been ſo juſt as to deliver up to Mrs. *Ireton* any of the four Bills ſent her by Mr. *Chitwood*, and by me: She is too regular to be a Month without owning one of them, eſpecially when they related to her Concerns. She complains to others, yet it is neither Mr. *Chitwood*'s Faults nor mine, that ſhe wants what is due to her, there is a Letter of Exchange ready for her this Fortnight, waiting for a ſure Addreſs; it had been, I ſuppoſe, loſt, like the reſt, if truſted to Mr. *Andrews*. Pray be ſo good as to give this Item to the poor Girl, and deſire her to ſend Mr. *Chitwood* a ſure Addreſs on ſight.

Mr. *Digby* has reſigned all his Concerns upon a valuable Conſideration to Meſſieurs *Chitwood* and *Dupleſſis*, who have ſet up at Mr. *Hues Banqr. rue de la Monnoye*: Be pleaſed to advertiſe Mr. *Digby*'s Correſpondents of this Change, that they may draw no more upon him on any Account. I'm upon Terms of agreeing with Mr. *Hughes*, where I ſhall be glad to hear from you, being as always,

Dear Sir,

Your's to Command,

Charles Querry.

E. 59.

Thurſday, July 19, 1722.

A Monſieur Maiſonneuve *chez Mr.* Waters *Banquier at* Paris.

MR. *Andrews* receiv'd yours of the 4. 8. 15, and 22. all together laſt Night, which was occaſioned by your Miſtake in directing to *King's-Street* inſtead of St. *James's*.

The Reaſons of my Silence you may eaſily gueſs at; and for not writing to your ſelf ſince my Recovery, the Particulars of which, you will ſoon receive an Account of at large by Mr. *Hub*, who leaves this in a few Days, and I will likewiſe ſend a Book of Accounts, for my own Uſe, at the ſame Time, which muſt not ſtop or prevent the ſending over the One you have in Hand.

I am

I am very glad to hear that all Friends are well, and extremely obliged to them for their friendly Concern, which I ſhall always endeavour to Deſerve: The Letter of Credit, you mention, is a Favour that I could not reaſonably expect or hope for, and will come ſafe either to Mr. *Wilkins* at *Will*'s Coffee-houſe *Convent-Garden*, or to Mr. *Andrews* at the Dog and Duck in St. *James*'s-*Street*, tho', if ſome People keep their Promiſes to me, I ſhall have no Occaſion to make Uſe of it, and if I do, I hope to be ſoon able to repay it with Thanks.

I could ſay ſomething to you about Friends here; but think it much better to refer that Matter to *Hub*, who will be able to give you a more full and perfect Account, and I wiſh that the Old Leaven may not be ſtill too ſtrong in ſome People, and not only hinder them from ſending you what they ought to do, but be a means to carry themſelves into Meaſures which I am afraid they will repent.

Thomas has receiv'd all yours, and I will tell *Jemiſon* what you deſire and make him write ſoon to you, and will ſoon fix Matters ſo, that we may correſpond without any further Miſtakes.

My Obligations to your Coſ. *Dig.* are ſo great and many, that I will not pretend to ſay any more in return, than to preſent my hearty Thanks to him in particular; and likewiſe my Reſpects to Mr. *Clark*, Maſ. and in ſhort all other Friends that you think proper; I am very glad to hear of our worthy Friend *Nick*'s Welfare, and will acquaint his Mother with it, who does not doubt your Care of her unhappy Affairs on that Side.

I ſpoke to M. about what you ſay in relation to his Son, which he would accept of, but the Situation of his Affairs is ſo unfortunate too, that he muſt ſoon take a Tour to ſome other Part of the World himſelf, and thinks it beſt for them to live and die together. The Hanging and Proſecution in *Ireland* make up moſt of our News here; the Camp, 'tis ſaid, will continue till *September*, and Lord *Cadogan* is every Day employ'd in exerciſing of them.

Rep; *Ho:* and *Dan.* have been lately together, and given *Hub.* I ſuppoſe, their final Anſwer, ſince which, the two laſt are gone to the Country; *Rig* is there too, and wiſh he may perform his Promiſes, which I believe he may do, if he pleaſes.

Pleaſe to accept of my humble Service and hearty Thanks for all Favours, and believe me for ever,

My deareſt Friend,
Your own moſt Sincere
Adieu.

E. 60.

July 23, 1722.

Anonymous *Letter to Mr.* Ja. Crow, *under the Cover of Mr.* Waters *at* Paris.

I Wrote to you, my Dear Friend, ſome Poſts ago, an Account of my preſent Situation, ſince which I received a kind Letter from our Friend on that Side, wherein he Promiſes to help me over my preſent Difficulties; this, and the Hopes of Succeſs in another particular (when the next Term is over) makes me a little eaſy, and the more, becauſe I hope it will be in my Power to ſend you ſome Supply. but how to hold out till then, is the Queſtion, and I am really at the utmoſt Loſs to do it ſooner; tho' no Endeavours ſhall be wanting towards it.

As for what we have ſo often talk'd of, I don't know what to ſay to it, and *Nick*'s Return (to whom my kind Service) gives me the leſs Hopes of it; but, that, you are the beſt Judge of, and can only tell you, That I hear the beautiful 'Squire, that you were once a little angry with, is certainly determin'd upon Something; but when, and in what manner, is what I know nothing of.

Your Wife ſets out about the latter End of the Week, and by her, you ſhall hear further from me: In the mean time, I expect to know how matters are with you, and make uſe of the ſame Addreſs.——— News we have none, the Prince has been indiſpoſed for ſome Time, and of a certain Diſtemper, as ſome ſay, but whether he be in a bad or good Way, is what I cannot tell you.

Pleaſe to make my Reſpects acceptable to all Friends: I hear but an indifferent Account of our worthy Friend Mrs. *Winter*, which I am heartily concern'd for.

E. 60.

If you have have not ſpoke to Mr, *Digby*, as I deſired you in my laſt, I muſt deſire you to defer it till you hear farther from me, and ſo my Dear Friend, I bid you heartily Adieu.

E. 61.

July 24th.
Auguſt 4th. 1722.

A Letter from Charles Querry *to Mr.* Ireton, *under a Blank Cover, to Mr.* Andrews *at the* Dog *and* Duck.

Dear Madam,

ON Receipt of your's of the 19th *July*, your Couſ. *Chitwood* order'd Mr. *Waters* to give me the incloſed Bill of Exchange of One hundred Pounds *Sterl.* payable to your Order by Mr. *Martin Harrold*, purſuant to the Advice he will receive by this Poſt; in caſe your Health ſhould not permit you to take the Trouble of preſenting the Bill your ſelf, Mr. *Waters* is of Opinion you will not do amiſs to ſend it by a Perſon that may be known to Mr. *Harrold*, after endorſing it with your Name.

Couſ. *Chitwood* prays you will own the Receipt *per* next Poſt, and give her a full Account of your Health and Concerns, when you are in hopes to be rid of that uneſy Diſtemper, and in what manner do the Doctors intend to treat you, for your Letter leaves thoſe Points much in doubt; it's true, you refer all to Mr. *Huberts* by whom your Couſ. *Chitwood* expects to receive an ample Account of you, and all the Family, to which ſhe deſires to be kindly remember'd.

I'm very glad Mr. *Andrews* has delivered you the ſeveral Notes you mention, their Delay gave ſome uneaſineſs, fearing your Silence was occaſion'd by ſuch a degree of Weakneſs as hindred you from writing, or ſome other unexpected Accident. You did perhaps accuſe your Friends of being Careleſs of you when under Sickneſs, but I hope you are ſatisfied the few here, and particularly Couſ. *Chitwood*, was not a moment backward in good Nature and Attention towards you; permit me alſo to aſſure you of the true Friendſhip with which I conſtantly am,

Dear Madam,
Yours to Command,
Ch. Querry.

E. 62, 63.

Paris, the 5th *Auguſt* 1722.

A Letter from J. T. *to Mr.* David Wilkins, *at* Will's-*Coffee-Houſe, near* Covent-Garden, *London.*

YOU have, I don't queſtion, been a little ſurprized, my Dear Friend, that I have not ſooner anſwer'd yours of the 28th of *June*, but I can aſſure you I only miſs'd, the laſt Poſt, for it was ſent to *St. Germains* the Day I came thence to this Town, and when it was ſent after me, I found it proper to be ſhewn to our Friend *Cane* before I anſwer'd it, which I could not have an Opportunity to do 'till it was too late to write by the laſt Poſt; he ſeem'd not ſo ſurpriz'd as diſſatisf'yd at the Unkindneſs you met with; and as he did you juſtice in all our Diſcourſe of you, I don't doubt but he has it in his Inclination, whenever it happens in his power, to have other Returns than thoſe you have met with, made to your Merit and Sufferings. As for your Concern for my Circumſtances, I give you a Thouſand Thanks, but I beg they may be no longer any to you, for I averr to you, That what you have done gives me a much greater Pleaſure than whatever Inconveniencies both of us may ſuffer from it, can give me Pain. O! there is an inward Pleaſure in a Noble Action, which none but the Actor or his true Friend can know, others may admire but never can feel it, nor is it, I believe, poſſible to be expreſt. I ſhall in Two Days more return to my Retirement; and then go into a Milk-Diet 'till either your Circumſtances mend, or I receive a ſmall Return from *Ireland*, which I have been ſome time

age

ago made hope for, if either happens I go on my Journey, for I can't find I have any further Buſineſs here; if I ſhould be every way diſappointed, God's Will be done; I have been long in the School of Patience, and hope I ſhall be able to practiſe it. By what I've juſt ſaid, you ſee I have no reaſon to oppoſe your retiring to ſome cheap Country, but as I am kept in the Dark, you are not to mind what I think, ſince your are certainly better informed by thoſe who are better Judges, tho' I dare ſay not more your Friends. Pray give my affectionate Service to our Br. *Frank*, whoſe diſtinguiſhing Behaviour, in relation to you, charms me, both in his own and our Country's Account. *Nich. W.* is now in this Town, which has kept me here theſe Eight Days, he is well as to Health, and that's all; and that too is ſaying a great deal: When I ſat to write he enjoyn'd me to aſſure you of his eternal Friendſhip, and that he takes a Friend's Share in all that concerns you. I am moſt ſincerely touch'd at the ill State of Health of our Friends in the *Cockpit*, and heartily wiſh, That the next may give me a more comfortable Account of them. Pray when you ſee them next, make them my ſincere Compliments, and aſſure them, That I ſhall have as great a joy to ſee them here, as I have Acknowledgments to make to their Goodneſs for their unmerited Favours, of which the leaſt is not their obliging Wiſhes to find me in this Country. Forget me not to our Friend in *Bury-ſtreet*, and thoſe near *Hannover-ſquare*, and if your Credit ben't as low as your Purſe, contrive, if poſſible, to ſend me the Watch for *Dick*, for I had a Letter from him the laſt Poſt but one, which mentioned it a-new, and I boldly anſwered, It ſhould be ſent to him very ſoon, if I my ſelf could not be the Bearer by the middle of *September*, by which Time I muſt think of going to that Country, or be loſt there intirely. I had a long Epiſtle from Mrs. *Jeffrys* ſince yours was writ, ſhe has been long very ill, but was then very much better by taking the *German* Spaw-Waters. God ſend ſhe continues to mend, for we all ſhould have a great Loſs of ſo valuable and true a Friend.—We have ſtrange News here from *Verſailles*, The Dutcheſſe of *De Retz* baniſh'd from Court for a little Adultery, and for endeavouring to procure her - - - - - in-Law, Madame *D'Alincourt* for the Duke *de Richlieu*, her own *quondam* Favourite. He too with a String of 10 or 12 Bougerers, the Chief young Nobility of the Kingdom, ſince taken in that abominable Fact, are all baniſh'd to ſeveral Parts, except one, who is ſent to the Baſtile for three Years. I think they are better uſed than they deſerve, and 'tis a pitty that their Quality ſhould skreen them from the Puniſhment due to their Crime, and which would certainly be inflicted on any of meaner Rank ſo catch'd. I never have reaſon to brag much of my hand, but I think 'tis this Morning worſe than ever, for I writ in great haſte, being juſt now to go to the Colledge *de Louis le Grand* to ſee a kind of Tragedy, wherein my little *Tyrconnel* has a part, which I muſt not miſs to ſee. Adieu, therefore, my Dear Friend,

I'm ever Yours,

J. T.

E. 64.

Thurſday, July the 26*th*, 1722.

A Letter from Monſieur Waters, *Banquior pour faire tenir, to Monſieur* Maſonneuve, *at* Paris.

TWO Poſts ago I acknowledged the Receipt of the four Letters directed to Mr. *Andrews*, and likewiſe told you of the Miſtake which occaſioned their Delay, ſince that I received yours of the 28th Inſtant, and have very little to ſay in anſwer to it.

Rig and *Skin* have been lately together, but the Reſult of their Meeting I know nothing of, for the firſt went the next Morning to the Country; he ſent for me before they met, to know if *Skin* ſtood well with Mr. *Chitwood*, and his Partners, that he might behave accordingly to him; to which I told him, That I never heard any thing to the contrary: *Rig* ſeems ſtill to promiſe his Aſſiſtance, if he can get the better of his Suſpicions, which he has fixed ſomewhere, tho' I cannot find out the place; but I ſuppoſe you may hear ſomething of it when you ſee Mr. *Skin*, to whom it's probable he may communicate his Sentiments that way.

The Marquis ſets out to Morrow or next day, and by him I will ſend you an Account Book, and *Trotter* does the ſame, you will by the ſame Hand receive a full

full Account of Mrs. *Ireton's* Concerns, which perhaps may help you to clear up that Matter.

Pleaſe to make my Reſpects acceptable to Monſieur *Dupleſſis*, whoſe Friendſhip I had always but too many Tokens of, and the Letter of Credit which he is pleaſed to offer, is a Favour that I could not expect, and now I hope ſhall have no Occaſion for; that and any other Commands will come ſafe either to *Wilkins* or *Andrews*, to whom always addreſs till you hear from me to the contrary, which will be perhaps pretty ſoon, and let me know in your next, whether Monſieur *Maſonnave* is ſtill to be made uſe of, ſince *Dupleſſis* has changed his Method that way.

We have no kind of News; ſome talk that our Camp will be up next Month, but I am told that Forrage is order'd till *September*. There are few of your Friends in Town, but I believe they are all well; my kind Service to every Body, concludes me, my dear Friend, Your's entirely. Adieu.

I have ſpoke to *Jemiſon*, as you deſired, and he has promiſed to write to you ſoon.

E. 65.

Thurſday, July the 30th, 1722.

A Letter from Monſieur Dupleſſis, *under a Blank Cover, to Monſieur* Hughes, *Banquior rue la Mounoye, at* Paris.

SIR,

I Should preſent my Reſpects much oftener to you, but am told the People of the Poſt Office ſtill continue their Practice of opening Letters, and tho' I have no Secrets that relate to the Publick, however, I believe no Body likes to have, even Letters of Friendſhip, known by them. The general Calamities are the chief Subject of our Converſation on this ſide: In *Ireland* they have executed ſeveral for lifting Men for the Pretender; here, indeed, they have not gone ſo far, and what Noiſe the Miniſtry made, and Meaſures they took in relation to the Plot, were ſo univerſally diſliked, that moſt believed it was all over, 'till laſt *Saturday*, at which time they ordered one Mr. *Kelly*, who married a Niece of the Lord *Strafford's*, and his whole Family, to be taken into Cuſtody: It ſeems, this Gentleman has a Daughter, who fell lately into a Conſumption, for the Doctors preſcribed a warmer Climate, and purſuant to their Directions was going with his Family into *France*, and being to embark on *Saturday* Morning, there were Eight or Ten Meſſengers ſent, and an Officer with a File of Muſqueteers, who ſeized and ſearched the whole Family, and not only them, but all Perſons that happen'd to go, to wiſh them a good Journey. Mr. *Kelly* was ſent to a Meſſenger's Houſe, and Lord *Townſhend* would have ſerved the Ladies the ſame way, but the Lady *Bellew* refuſed to go to any Priſon (as being a Perſon of Quality) but the *Tower*, upon which ſhe and her Daughter, and Grand-Daughter, with ſome other Ladies, were allowed to remain in the Lodgings, but only one Servant to attend them; they likewiſe ſeized the Ship, unpack'd and rifl'd all his Goods, but upon what Informations I cannot learn: They have been examined, and tho' the Court has given out, That they found ſome Papers of Conſequence, yet, I am aſſured, that what they found, are only ſome Ballads and Pamphlets, and thoſe in ſome of Women-Servants Poſſeſſion. As yet, they are allowed to ſee no Body, ſo, that by next Poſt, I hope to be able to give you a fuller Account. I was glad to hear of your good State of Health by the tall Man, and will ſettle what you deſire in relation to the old Gentleman with him. All your Friends are well, but moſt of them in the Country: I am, with my uſual Reſpect and Sincerity,

SIR,

Your moſt obliged and faithful Servant,

Joſ. Andrews.

Thurſday, Auguſt 2, 1722.

Letter from D. Wilkins *to Monſ.* Maſonneuve, *under a Blank Cover to Mr.* Waters, *Banquier at* Paris.

I Receiv'd yours of the 4th Inſtant, and Mrs. *Ireton* tells me, That ſhe did the ſame, with the Bill which you ſent enclos'd to her, for which ſhe is very much oblig'd to you, and hopes in a few Months to be able to repay you, in caſe ſhe has occaſion to make uſe of it; what her Creditors will do, in relation to her, I cannot tell; her Letter of Licence is not out till the latter end of *October*, and they threaten to ſhew her no Mercy then; in the mean time, ſhe muſt Live, and hope the beſt, and only wiſh that ſome good Turn of Fortune may enable her to do them Juſtice.

I expected to have ſent you the State of our Accounts before now; but the Perſon that was to carry them had a Misfortune the other Night, which prevents his Journey, and therefore cannot do it 'till he recovers, or ſome other Opportunity offers.

The Town has been entertain'd for ſome Days with the State Proceedings; for one Mr. *Kelly*, who married a Daughter of the Lady *Bellew*'s, was taken up with his whole Family laſt *Saturday* Morning, and moſt of them ſent to different Places of Confinement. Lord *Townſhend* would have ſent the Ladies to the Meſſengers Houſes, but the Lady *Bellew* refuſed abſolutely to go any where but to the *Tower*, for as being a Peereſs ſhe would be treated as ſuch; upon which, ſhe, her Daughter and Granddaughter were allowed to remain in their Lodgings, with only one Servant to attend them, and put all into one Room, and ſo cloſely guarded, that they were not permitted to ſpeak to any Perſon, nor even to one another, but before an Officer and a File of Muſqueteers, who ſtayed conſtantly with them: This Uſage was condemned by the Town; and Lord *Bathurſt*, who is their Relation, interceded ſo far as to have them ſet Yeſterday at Liberty: They were never Examined, but all their Servants were, and remain ſtill in Cuſtody. It ſeems, this Gentleman's Crime is no leſs than High Treaſon: He was from *Saturday* till *Monday* Night at a Meſſenger's-Houſe, and then was committed to the *Tower*, and No-body as yet allowed to ſee him; but the Eighth Day, the Rule is, they ſay, to admit People: The true Reaſon of his being ſent to the *Tower*, I cannot learn; ſome ſay, That upon his Second Examination he refuſed to Anſwer ſome Queſtions as Lord *Townſhend* would have him, and that he did it in a Paſſion, in Order to put him to the more Expence: Others ſay, That having nothing againſt him, the Council thought to ſoften the Matter by an Honourable Confinement; but the Truth of this we muſt farther wait for. When he was firſt taken, every Coffee-Houſe rang with the great Diſcoveries that were made, and that an Aſſociation of the Principal People of *England* was found about him, and a Hundred Thouſand Pounds in a Strong Box, which he was carrying to the *Pretender*; but theſe Reports begin to vaniſh, and a Juſtice of the Peace, who was preſent when the Strong Box was opened, has been heard to ſay, That there was but Seventy Guineas in it, which he had to Defray his Journey to *Paris*, and ſo the Town judges accordingly of the reſt, and now begin to be convinced, that there is nothing at all againſt him; his own Family, I hear, are of the ſame Opinion, but notwithſtanding, he remains a cloſe Priſoner; there were a great Number taken who went to wiſh them a good Journey, but they are all diſcharged: Upon Examining the Servants, moſt of the Queſtions ask'd them, were, about one Mr. *Erſkine* and *Kelly*, who were taken up ſome time ago, and uſed, it ſeems to Viſit him often, and I hear that they have ordered a Second Warrant againſt the latter, and two Juſtices of the Peace to find him out, and Adminiſter the Oaths; but I ſuppoſe he will not abſcond ſince he has given ſuch Bail for his Appearance. I know you are very Curious, and for that Reaſon am ſo particular, and a Perſon is juſt now come to ſee me, who is pretty intimate with Mr. *Walpole*, and he aſſures me, That the Court is extreamly diſappointed in this Matter, for that they have not found a piece of Paper of any kind about Mr. *Kelly* to their Purpoſe, and that ſome People, who they expected would fly upon his being taken up, are come to Town: 'Tis ſaid, they had their Eye pretty much upon Lord *Strafford*, and expected to have found ſome of his Papers or Money on this Occaſion: They talk of ſeveral other Noblemen, but I hear of no Body that keeps out of the way, or ſhews the leaſt Marks of Fear. I am told, that there came one *Burk* an Attorney from *Ireland*, and was to go in the ſame Ship to *Paris* to ſpeed a Commiſſion for ſome of his Clients, and that he was likewiſe Seized and Examined, but finding nothing againſt him, that they diſcharged him and returned him all his Papers; but a Letter which he had from one *Glaſcow* in *Dublin* to a Friend of his in *Paris*, wherein 'tis ſaid, They found ſomething that did not pleaſe them, and have

ſent Orders to have him taken up; but this may prove as falſe as the reſt, and by next Poſt, the whole Affair will probably be all cleared up; but there are ſome Fellows lately come here, one *Weſtcomb*, they ſay, from *Spain*, and one *Hays* from *Ireland*, who have been Inſtrumental in taking up ſome People, and threaten to Swear againſt no leſs than 500 of the Guards; and tho' no great Credit is given to what they ſay, however, it makes People very uneaſy to ſee them ſo much Encouraged and Careſſed.

I have now tired your Patience, and therefore will Trouble you no further than to make my Reſpects Acceptable to all Friends; And believe me yours, as always,

D. *Wilkins.*

When you write hereafter to Mr. *Andrews*, you need not put a Cover about it, for we muſt be ſaving theſe hard Times. If Mr. *Querry* be not in Town, take up a Letter I ſend by this ſame Addreſs.

E. 67.

Monday, Auguſt 6th. 1722.

A Letter from Da. Wilkins, *to Monſieur* Dupleſſis, *under Mr.* Hugh's *Cover, Banquier à* Paris.

SIR,

I Gave Monſieur *Maiſonnuve* an Account by laſt Poſt, That Mrs. *Ireton* received the Bill for which ſhe deſires me to return you her ſincere Thanks, and intends to let it lie by for a Reſerve till her Letter of Licence is expired, and ſhe knows what Reſolution her Creditors will come to.

I have not of late ſeen any of your Friends, moſt of them being in the Country, but I believe they are well, and will, I ſuppoſe, be ſoon in Town, if the Parliament ſits next Month, as it's ſaid it will.

The Miniſtry ſtill continue to take up People; on *Saturday* Morning, one Mr. *Cotton*, who was concern'd in the *Preſton* Buſineſs, was taken into Cuſtody, and all the People that were in his Houſe: I hear that his Son, and one *Cart* a Clergyman (who keeps pretty much with him) were in the ſame Warrant, but that they eſcaped. Mr. *Kelly* is ſtill in the *Tower*, and not allowed to ſee any Body, the Ladies and Maid-Servants are diſcharged, but his Footmen are ſtill confined; a Perſon who is very intimate in that Family, told me this Morning, That they are very eaſie, and no way apprehenſive of any Danger that can happen to him, for it ſeems that all thoſe Stories which were at firſt reported, of his having Letters, and vaſt Sums of Money, are entirely groundleſs; but what the Government will do as to his Enlargement, no Body can tell as yet. 'Tis ſaid that Meſſengers are ſent into *Ireland*, to bring over one Mr. *Glaſcock*, upon Account of ſome Letters which were lately ſent by him to Friends of his at *Paris*; and juſt now I hear, that People are ſent to look out for one Sir *H. Goring*, but this you muſt take as Coffee-Houſe News.

The Guards are frighted, they ſay, to a prodigious Degree, upon Account of ſome Informers who threaten them; two of them were carried the other Day along the Lines, by Lord *Cadogan*, to pick out the Perſons concern'd in this Plot; and ſome (which they pointed at) were immediately taken up, and every Body will ('tis ſaid) be ſerved the ſame way, that theſe Fellows pleaſe to diſlike; they are much encouraged by the Court, to ſpeak Truth, and where it will end, God alone knows.

Mr. *Patten*, the *Preſton* Informer, has taken up his old Trade again, and is employed in tutoring the young ones, whoſe Number is encreaſed to a conſiderable Degree with in theſe few Days; and a Perſon that knows him, aſſur'd me, That he ſaw him publickly, at the Head of no leſs than Twenty of them. You know my Affection to the preſent Eſtabliſhment, and theſe Proceedings give their beſt Friends no ſmall Concern, becauſe they muſt certainly do hurt at the end.

When any thing new happens, you'll pardon me if I trouble you with it; in the mean time, pleaſe to accept of my beſt Reſpects, and believe me always,

SIR,

Your moſt &c.

Da. Wilkins.

I know you underſtand *Engliſh* well enough, which is the Reaſon that I write in that Language to you.

Monday, Auguſt 6th, 1722.

A Letter from Jo. Andrews *to Monſieur* Maiſonneuve, *under a Blank Cover, to Mr.* Waters *at* Paris.

MRs. *Ireton* return'd you Thanks by laſt Poſt, for the Bill you ſent her, and has very little beſides her Acknowledgments to trouble you with at preſent.

We are every Hour alarm'd with ſome Body or other being taken up; this Morning we had Reports of one Sir *H. Goring*'s being taken, and that Forces were ſent for the Lord *North* and *Grey*, Lord *Strafford*, and other Perſons of Quality, but I find there is no Truth in them; and I am told the two laſt are come to Town; one Mr. *Cotton* was taken on *Saturday*, and this Day one Mr. *Campbele*, a *Scotch* Gentleman, who lately returned from Abroad, as the Report goes; one *Semple*, who was Page or Butler to Sir *Robert Sutton*, was taken up for High Treaſon, and made his Eſcape laſt Night out of the Meſſenger's Hands, and this Day I ſee a Reward of 500 *l.* offer'd by the Government for him.

I hope ſoon to ſend you the State of our Accounts, which has hitherto been delay'd for want of a proper Hand; can't you gueſs from whence the ill Report of your loſt Circumſtances comes, which has occaſion'd this Severity from his Creditors. Pray let me know your own private Thoughts, and you will much oblige, yours, moſt ſincerely,

Jo. Andrews.

Mr. *Kelly* is not allowed to ſee any Body as yet, and I am told, That he and his Family are no way apprehenſive of the leaſt Danger.

E. 69.

Thurſday, Auguſt 9th, 1722.

A Letter from Jo. Andrews, *to Monſieur* Maiſonneuve, *under the Cover of Mr.* Waters, *Banquier at* Paris.

Dear Sir,

I Received yours of the 12th Inſtant, and were it not for Writing ſake, I might very well be ſilent for any thing that I have to ſay.

This Day the Great Duke of *Marlborough* was interred with great Solemnity, but not half what People expected, for there was nothing worth mentioning, beſides his Herſe, which was an open one, drawn by Eight Horſes, and very ſolemn; the reſt was only a Repetition of the ſame Things, and the Proceſſion of all the Guards was the fineſt Part; but tho' all Hands were employ'd about it, yet the Government had a cloſe Eye upon the *Tower*, this being the Day, as it is ſaid, that the Jacobites propoſed to ſeize it.

Mr. *Kelly* is there ſtill, and not allowed to ſee his Friends, tho' I am told, that his Lady and her Relations have ſollicited it, which is look'd upon to be pretty ſurprizing, conſidering that no Papers of any kind were found about him, as his Family ſays; but I believe the Hurry of this Funeral did not give the Miniſtry Time to think of it; and now that it is over, they will give him that Liberty. One Mr. *Cochran*, a young Gentleman lately brought from *Scotland*, was committed laſt Night to the *Tower*; and Mr. *Smith*, who was brought at the ſame Time, is, I hear, admitted to Bail; a Commiſſion of *Oyer* and *Terminer* is talk'd off, for trying all thoſe that were taken up; and as moſt People believe, the Parliament will ſit next Month, we don't then queſtion of being informed of all the Particulars of this Helliſh Conſpiracy, eſpecially ſince the Miniſtry have promiſed it; and after that, I hope we ſhall be eaſy for ſome Time.

Den. is come to Town, and behaves himſelf like a Friend; *Rep.* is ſtill in the Country, and ſo is *Ho*; the latter has earneſtly begg'd of Mrs. *Ireton* to go to her for a few Days, and ſhe tells me that ſhe has ſome Thoughts of doing ſo, but her Stay will be very ſhort.

My Reſpects and Services, as due, conclude me,

Dear SIR,

Your moſt affectionate Friend, and Servant,

Jo. Andrews.

There is juſt now a Proclamation come out, offering 1000 *l.* for *Semple*.

E. 70.

Monday, 13th. *Auguſt* 1722.

A Letter from Jacob Williams *to Mr.* Maiſonneuve, *under Mr.* Waters's *Cover, at* Paris.

Dear SIR,

TO Morrow I intend to go and ſee Mr. *H.* who being at a pretty good Diſtance from hence, I cannot return in leſs than Four or Five Days, and will then let you know the State of his Health and Affairs.——Your Friend in Town is in *Statu quo*, but we hope ſoon to bring his Creditors to reaſon, the Lawyers being of a Opinion, That his Arreſt was illegal, and that he may recover conſiderable Damages, but that you know will be a Work of Time, and hope his Liberty will not. What would you adviſe poor *Trotter* to do, he is ready to take a Voyage any where, and is you know an honeſt and a fit Perſon for that Buſineſs; he has wrote very earneſtly to me for my Advice, which I told him I could not give 'till I heard from you. I hear nothing as yet of your Brother, and heartily wiſh our late Reports concerning him may prove falſe.

We have no News here but what relates to the Plot, for which ſome Perſon or other is every Day taken up. Mr. *Kelly* is not as yet allowed to ſee any Friends, nor the other Gentleman; Mr. *Cochran*, whom Lord *Townſhend* went Yeſterday to viſit, but upon what Account is not yet made publick. The D. of *Marlborough*'s Funeral-Day, Three Regiments were ordered from *Hounſlow* to guard the City, that being the Day appointed by the Jacobites, (as the Report goes) to Seize the Tower, and which was, they ſay, Diſcovered by ſome of *Sample*'s Letters, againſt whom the Proclamation was iſſued; I hope the Government will ſoon come to the Bottom of this Helliſh Conſpiracy, that we may have a little more Peace and Quietneſs.——I really don't know when I ſhall be able to ſend you the State of our Accounts, but you may expect it by the firſt ſafe Hand.

Pleaſe to preſent my Reſpects as due, and believe me always,

Your moſt Affectionate Friend and Servant,

Jacob Williams.

E. 71.

Auguſt 24th. 1722.

A Letter from Ch. Querry *to Mr.* David Wilkins, *at* Will's *Coffee-Houſe, near* Convent-Garden, London.

My Dear Friend,

IT was no ſmall pleaſure to Mr. *Dupleſſis* and to me, when yours of the 19th *ult.* came to hand, after being ſo long deprived of your Correſpondence; I don't know how *Gerard* come to put down at firſt one Name for another on our Liſt of Addreſſes, which occaſion'd all the Miſtakes, but I am glad they are now at an end in ſo much; and I muſt hope a little time will ſet again our Correſpondence on a right footing.

Pray be ſo good as to call upon Mrs *Ireton*, and let her know that Mr. *Andrews* ſhould receive for her, by this Poſt, a Bill of 100 *l.* Sterl. drawn by Mr. *Waters* at Ten Days Sight, on Mr. *Martin Harrold*; I reſerve the Second Bill in caſe that ſhould miſcarry; pleaſe to excuſe this Trouble I give you, becauſe we have it here, That your Poſts are liable to Accidents. Let the Lady endorſe her Bill, and recommend her a Perſon known to Mr. *Harrold*, that may preſent it for her, if you judge it may not be ſafe for her ſelf to take the Air yet a while.

As to all former Accounts between us, as ſoon as I ſee the Gentleman you have Commiſſion'd to clear them, in relation to ſeveral Articles on which we are in the dark, I will endeavour to give you full Satisfaction.

Mrs. *Muſgrave* has receiv'd Advice from her Father, That ſhe is not to expect a Farthing of the Allowance due to her for the Time paſt, or to come, which *Allen* procured a Seizure of upon Account of her Husband's Debts and Miſmanagements. Another Letter by——to the ſame purpoſe is come to *Muſgrave* himſelf, from his

Brother

Brother in the Country, ſo that Family will be in a bad Way,——and I fear his Conſ. *Joddrell* is not much better yet; I don't care being named in what you may ſay of it to their Relations.

I am mortify'd at what you ſay of my Friend *Frank*'s Caſe, and that of our poor People at home; I can only wiſh to have any thing in my Power to eaſe them, but really this is a very unſeaſonable Time for both.

This Court is not without its Factions as well as others, in which certain Ladies of known Vertue have their Share: *Barker* had a damn'd Block put in his way by *Danpeire* and *Davenport*; it's even believ'd that *Lully* has a Share in it, ſo that the former does not bully ſo much as formerly, and is like to be pinn'd to cloſer Bounds.

There has been a kind of Hell-Fire-Club ſet up lately amongſt ſome of the Firſt Quality, but ſome are impriſon'd and others baniſh'd; If the City Vote took Place, the ſame Judges would be allow'd for e'm, that are mangling every Day *Cartouche*'s Tribe.

I will trouble you no more with this kind of Stories, but for want of better I muſt fill the Sheet with ſomething.—— My kind Service to Mr. *Thomas*, having nothing worth his while this Poſt; I'm glad Mr. *Jemiſon* is alive, having not a Word of him this Age; give them the Family's Service, and believe me moſt entirely,

My Dear Friend,
Yours to Command,
Ch. Querry.

E. 72.

Friday, Auguſt the 28th, 1722.

A Letter from C. Querry *to Mrs.* Ireton, *at Mr.* Andrews, *at the* Dog *and* Duck *in St.* James's *Street*, London.

Dear MADAM,

I May very well begin my Letter as you began yours; that were it not for writing-ſake, and owning yours of the 9th Inſtant, I might very well be ſilent, yet I believe you may be much of the ſame Temper with me, of being uneaſy when I do not ſee ſomething from you, though you had nothing elſe but Plot-Storys to tell me, which, of all, are certainly the leſs agreeable, therefore I beſeech you, as far as you can, do not ſlip one Poſt without ſomething, but have a Care of writing Treaſon, ſince I find by Lady *Bellew*'s Caſe, That there is no more Quarter for Ladies than for others. I am charm'd it was proved by her ſo well, That Women are capable of Bravery as much as Men, and reputed as ſuch, ſince they do them the Honour to make them Plotters: I am very ſure, That if our Men were as eager againſt their Men, as our Women againſt their Women, there would be ſoon an end of the Race.

Mrs *Skinner* is in *Paris*, but has not ſeen as yet Mrs. *Chitwood*; the latter has been much given of late to a retired Country Life, and reſolved to have as little Dealing as ſhe cad with Perſons that may not be agreeable to her Relations, tho' ſhe cannot take upon her to find Fault with them otherwiſe: She intends to confine her ſelf to Mrs. *Freeman* and Mrs. *Medley*'s Converſation, whom ſhe can depend upon, becauſe their Fortunes are much alike, and not maried, with a Reſerve ſtill of uſual Civility for the reſt of the Ladies ſhe has frequented; ſo much of Mrs. *Chitwood*, becauſe I know it will not diſpleaſe you to have theſe Particulars to tell ſome of their Relations.

I am contriving to come at *Barker* for a Relief in Favour of Mrs. *Farmer*'s Children, in Caſe their Step-Father ſhould pretend to deprive them of their due, I can't aſſure you I will proſper, but I will leave no Stone unturn'd towards it.

Now, to requite your Plot-News, I muſt tell you, That the Cardinal *Du Bois* is declared firſt Miniſter, and it is remarked he is grown prodigiouſly civil and popular ſince, ſo God ſend this Change of Fortune does not change his Manners, but it it common Word here, That he is now firſt Miniſter of *France* and *Spain*: They ſay the Regent will be declared Lieutenant-General of the Kingdom at the King's Majority. Theſe *French* talk of Nothing elſe; ſo now that I have contrived to fill up the Sheet, I will tak leave, and aſſure you, none is more conſtantly than I am,

Dear Madam.
For ever Yours, C. Querry.

Monday, Septemb. $\frac{10}{21}$, 1722.

A Letter from A. W. *to Monſieur* Bonnaville, *ſous le Couvert, de Monſieur* Hughes, *Banquoir, at* Paris.

Dear SIR,

I Hope you have ſeen Mr. *G——— Stephenſon* before now; if you have, pray give him my Service, and let him know that his Trunk did not come to Town till laſt *Saturday*, and ſhall be ſent by the firſt Carrier that goes to the Place where he directed. You will ſoon ſee a young Fellow, whom I mentioned ſome time ago to you; you may rely upon his Honeſty in his own Concerns; and I earneſtly beg of you to diſpoſe at any Rate of the Goods he carries with him; for to have them brought back again, will be a very great Loſs, and I am afraid, the utter Ruin of ſome People that you eſteem: He will inform you of the Particulars, and if you can ſell thoſe Goods without Mr. *L. Crawford*'s or his Partner's being concerned in the Bargain, it will certainly be ſo beſt, tho' I know others are of a different Opinion, but you will be the beſt Judge your ſelf of this Matter.

Your Couſ. *C. Saunders* is well, and with a Friend in the Country, who will take a particular Care of her, till a better Service can be got for her. Your Relations *N. Crone* and *S. Farell* are very impatient to know the Event of your *Miſſiſſippi*, and if you think they are to expect any Help ſuddenly from thence, they have made ſeveral Bargains for ready Money in the Third Subſcription here, and it's the Time which the Parliament allowed, for Non Proſecution will be out as ſoon as it ſits, their Creditors will then fall upon them, and all their Friends, and put them in Goal, except you can ſend them ſome Relief; and tho' your Actions are at a very low Price, however, I believe they wou'd be extreamly pleaſed to have them ſold at any Rate, to enable them to pacify their Creditors on this Side, and ſo put them in a State of Safety.

We have little or no News; I hear that the *Tower*-Priſoners moved laſt *Friday* at the *Old-Baily*, to be bailed or tryed, but that the Judges would not receive their Petition, becauſe the *Tower*, they ſaid, was not in that County, and ſo the Matter was not properly before them. Sir *Conſt. Phipps* was Council for the Priſoners, and he argued, That no Priſon was free from the Powers and Extent of the *Habeas Corpus* Act; and as the Priſoners were charged with High Treaſon, it was the Government's Buſineſs to declare in what Place or County they were guilty of it, that they might there apply for a Tryal; but the Court took no farther Notice of him, and abſolutely rejected the Matter, ſo that there is no Proſpect of their getting out, they ſay, till next Term, and if the *Habeas Corpus* Act be ſuſpended at the Meeting of the Parliament, as moſt People believe it will, they will remain during the Government's Pleaſure, and perhaps, have Company enough. Mr. *Glaſcock*, that was taken up in *Ireland*, is, I hear, ſtill in Goal, and that he has owned, That he wrote a Letter, which was in Cypher to one *Patſon* that is abroad, tho' his Name was not ſign'd to it: This Confeſſion, 'tis believed, will do him a great deal of harm, becauſe he refuſes to explain the Letter, which makes the Government believe that there is ſomething very dangerous in it. 'Tis talked, That ſome of the Five Regiments lately brought from *Ireland*, will be ſent to *Scotland*. Our News Papers ſay, That *G. Macartney* has already made a Diſpoſition of them, but in what Places, I cannot tell; they likewiſe talk, That our Camp is to be up the 24th Inſtant; which is acceptable News to thoſe in in it, who are all heartily tired of the Fatigue.

I think I have now given you News enough, and expect a good deal of *French* from you in Return. Pleaſe to make my Reſpects and Services acceptable to all Friends, and believe me always

Your moſt affectionate,

A. W.

E. 74.

Friday, Sept. $\frac{14}{25}$*th.* 1722.

A Letter from Char. Querry *to Mrs.* Ireton, *at Mr.* Andrews, *at the* Dog *and* Duck *in St.* James's-Street, London.

YOUR Letter of the 30th. *Auguſt* came ſafe, and the Particulars you gave of Mrs. *Rig*'s Caſe, were very acceptable to Mrs. *Cane*, whoſe Concern for a true and worthy Friend and Relation, cannot be doubted, and a longing Deſire to know her entirely

entirely clear of her Diſtemper. You are earneſtly pray'd to continue your friendly Care in informing us of the Variations which happen in it, and the Opinion of the Doctors that attend her: What is become of Mrs. *Thomas*, whom we heard nothing of this long Time? Will Mrs. *Hubbert* be obliged to keep her Bed for any long Time? Doctor *Chitwood* is very uneaſy upon her Account, and is of Opinion ſome venemous Drug has been ſlipt into a Doſe given her. He deſires to have his moſt humble Service preſented to the Lady's Mother and Family, with Aſſurances of a very ſincere Part in their Affliction, which he hopes and wiſhes may be ſoon abated. Mrs *Hore* is under a Fit of her old Sickneſs at *Rouen*, and the Doctor muſt go to her, or ſend to examine the Matter, for he does not find it ſafe to have her tranſported here, for many good Reaſons. This is a very ſickly Seaſon, both here and there, and abundance of Quacks going about, which cauſe much Miſchief.

Great Hopes are given, that we ſhall retire. —— Something out of our *Miſſiſſippi* Actions, but it's hard to depend upon theſe People's fair Promiſes. Lady *Mary Powis* has been well uſed about her Actions, by Interceſſions from *England* in her Favour, which may give ſome Hopes to her Creditors.

Mad. *de Mezieres* has married her Daughter Yeſterday, to a Prince of the Houſe of *Rohan*, by which ſhe gets a Rank over Princeſs *Trante* in this Court; ſhe buys it dear, and that is the principal Acquiſition ſhe makes by the Match; but Ladies ſpare nothing when it is in queſtion to ſatisfy Humour and Vanity. There is all the News I can give you from hence, if I did not entertain you with the young King's Occupations about the Siege of his Fort, where all our young People, and even our Ladies, are very curious to ſee the Method of Sieges. Mrs. *Cane* lives privately with her Family, and frequents her former two Companions but ſeldom; and by way of common Civility, I will trouble you no more at preſent; when you have any thing about *Frank*, pray let me know it, and believe I am moſt ſincerely,

Dear Couſin,

Your faithful, humble Servant,

Char. Querry.

E. 75.

Thurſday, Sept. 27th, 1722.

Extract of a Letter from Mr. Bonnaville, *under Cover to Mr.* Hughes, *Banquier at* Paris.

SINCE Mr. *G. Sampſon* went, I have not heard a Syllable either from *D. Gainer*, or *G. Roberts*, tho' I wrote often to both ſince that time, which has been a great Surprize, and I may ſay, no ſmall Detriment to ſome of their Friends, for the Term being ſoon at hand, we ſhall be much at a loſs how to manage without their Advice, which *G. Sampſon* poſitively promiſed to ſend a ſpeedy Account of. The Situation of your Friends ſtands much as it did for ſome Time paſt, and nothing has happened of late in your Family to eaſe their Loſſes or mend their Condition.

I muſt now plainly tell you, That I am afraid your Coſ. *N. Clifton* is in a very bad way, and a Perſon (whom he lately employed to manage ſome Things for him, particularly to compound his *South-Sea* Bargain) has not been true to him, for his Creditors have actually put him in Goal, and except you can contrive to ſend him ſome Relief from what Effects he put into your *Miſſiſſippi*, for I don't find he has any other Proſpect, that his Confinement will prove fatal to him; you know his worth, and for Heaven's Sake don't neglect him.

Pleaſe to make my Compliments as due, and to tell Mr. *G. Sanford* that I have not met with any Opportunity of ſending his Trunk where he deſired as yet, but hope to do it in a few Days. And ſo my Dear Friend, I bid you heartily

Adieu.

A Let-

à Paris le 20, Octobre, 1722.

A Letter from Mr. Bonnaville *to Mr.* Andrews, *at the* Dog *and* Duck *in St.* James's*-Street, to be forwarded to Mrs.* Ireton.

Mademoiſelle,

CE n'eſt point par aucune negligence ou refroidiſſement que j'ay paſsé quelque tems ſans vous rendre compte des Commiſſions dont vous m'aviez chargé, toutes les Lettres que vous m'avez ecrit par la poſte ſont arrivés à bon port de même que la derniere à Mr. Diſode, *mais Je n'ay pas encore veû celuy que vous avez chargé de me remettre les Inſtructions particulieres ſur leſquelles vous m'avez mandé que je devois me regler, et la maniere de la quelle je devois vous addreſſer vos emplettes, il arrive que cet homme a tranvé des Affaires qui l'ont encore retenu en Campagne ; l'on me dit meme qu'il ne viendra pas ſitoſt en Ville, et ſur cela j'ay pris des meſures pour avoir bientôt le Memoire que vous luy avez donné, ainſy j'eſpere que vous aurez lieu d' être bientôt ſatisfaite de mon exactitude et de la reparation que je vous feray pour le paſsé. Vous m'avez marqué qu'il y a un de vos Amis qui avoit quelque choſe dans nos Actions de* Miſſiſſippi, *et ſe trouve extremement preſsé par ſes Creanciers, lequel ſauhaite Scavoir ſ'il n'y a paſsmoyen de lever quelque Argent icy pour le tirer de peine, j'ay montré cet Article a Mr.* Diſode *qui m' a promis de faire ſon poſſible pour rendre Service a vôtre Ami quand il connaitroit ce dont il eſt Queſtion. Je puis vous aſſurer qu'il ne ſepargne pas pour rendre tous les Services qui peuvent dependre de luy a d'honnetes Gens qui ſe tranvert en pareil cas, quoyque le tems ſoit dur et le Commerce bien derangé. Ainſy je vous conſeille de luy expliquer le fait par la premiere Lettre que vous luy e crirez.*

Toutes les nouvelles de ce paiis cy ne roulent que ſur le ſacre du jeune Roy qui ſe forme tous les jours a ſouhait, et paroit avoir les Inclinations fort bonnes 'il commence a prendre un Air de Maitre, et nous avous comme vous nos Whigs et nos Torys. L'on vient de me dire que Madame la mere de vôtre Duc Regent eſt morte en chemin allant a Rheims, *ce qui cauſera un grand Deuil dans ce pays-cy au retour du Sacre auſſibien que chez vous car on dit qu'elle eſtoit la bonne Amie de vôtre Princeſſe.*

Je ne vous ennuyeray pas d'avantage quoique vous m'ayez recommandé de vous ecrire de longues Lettres pour vous exerier dans la Langue Francoiſe. *Honorés moy toujours de vos Commandements et ſoyes perſuadé de l' attachment ſincere et affectionné avec laquelle je ſuis,*

Madamoiſelle,

Vôtre tres humble, et tres obeiſſant Serviteur,

Bonnaville.

E. 76.

The TRANSLATION.

Paris, $\frac{9th}{20}$ *October,* 1722.

A Letter from Bonnaville *to Mr.* Andrews, *at the* Dog *and* Duck *in St.* James's*-Street, to be forwarded to Mrs.* Ireton.

Madam,

IT is not thro' any Neglect or Coolneſs, that I have let ſome Time paſs without giving you an Account of the Commiſſions with which you had charged me; all the Letters you wrote to me by the Poſt are come ſafe to hand, as well as the laſt to Mr. *Diſode*; but I have not yet ſeen Him, that you have charged to deliver to me the particular Inſtructions, by which you have ſent me word, I am to govern my ſelf, and the manner in which I am to direct to you what I ſhall buy for you. It has happened that Man has met with Buſineſs that has kept him yet in the Country; they even tell me he will not come ſo ſoon to Town, and I have thereupon taken Meaſures to get ſhortly the Memorandum you have given him; ſo I hope you will quickly have Reaſon to be ſatisfied with my Exactneſs, and with the Amends I ſhall make

you

you for what is paſt. You took notice to me, That there is one of your Friends who had ſomething in our *Miſſiſippi*-Stock, and finds himſelf extreamly preſt by his Creditors, who deſires to know, Whether there is no way to raiſe ſome Money here to take him out of Trouble. I have ſhewn that Paragraph to Mr. *Diſode* who has promiſed to do his utmoſt to ſerve your Friend when he ſhould know what the Caſe is. I can aſſure you, That he ſpares no pains to do all the Services that in him lye, to honeſt People that happen to be in the like Circumſtances, tho' the Times are hard, and Trade much out of order, therefore I adviſe you, to explain the Matter to him, next time you write to him.

All the News of this Country run upon nothing but the Coronation of the young King, who improves daily as one could wiſh, and appears to have very good Inclinations. He begins to take upon him the Air of a Maſter, and we, like you, have our Whigs and Tories. I am juſt now told, That Madame, our Duke Regent's Mother, dyed by the way going to *Rheims*, which will occaſion a great Mourning in this Country, upon the Return from the Coronation; as well as with you, for it is ſaid, She was a good Friend to your Princeſs.

I will not tire you any more, tho' you have recommended to me to write to you long Letters, to exerciſe you in the French Tongue. Honour me ſtill with your Commands, and be perſwaded of the ſincere and affectionate Attachment with which I am,

Madam,

Your moſt humble, and moſt obedient Servant,

Bonnaville.

E. 77.

26 *Octob.* 1722.
8 *Jan.* 172$\frac{2}{3}$.

The EXAMINATION *of* William Sturgis, *of the Pariſh of St.* Martin's *in the Fields*, Middleſex, *Coffee-Man.*

WHO ſays, He keeps a Coffee-Houſe in St. *Martin*'s Court, in St. *Martin*'s Lane, That he has received one Letter and no more, as he beſt remembers, directed to one *Dupuy*, which came laſt *Wedneſday* and is charged Ten-pence; That the Examinant does not know any Man perſonally by the Name of *Dupuy*, but never refuſes any Letter that comes directed to his Houſe, being afraid it might be for a Cuſtomer, of which there are ſo many, he does not remember all their Names, and that ſuch Refuſal might diſoblige him; That no body having called for this Letter, he did laſt Night enquire among the French Gentlemen, that frequent his Houſe, who this *Dupuy* might be, and they told him, There was one of that Name who was Brother, or Brother-in-Law to Mr. *Brunneval*, that was Secretary to the late Earl of *Gallway*. The Examinant further ſays, That he received another Letter for one *Briſac*, that he knows of ſeveral of the Name, but no one has yet called for the Letter, that the Examinant knows of. The Letters being now brought, appear, by the Poſtage charged, to be Foreign Letters, and that to *Dupuy* to have come the 24th, and the other to *Briſac* the 22d of *October* Inſtant.

William Sturgis.

Jurat' 26 *die* Octobris, 1722.
coram me
Ch. Delafaye.

The further EXAMINATION *of* William Sturgis.

WHO ſays, The Letter now by him delivered up, directed, [à Monſ. Monſ. *Briſac*, at *Sturgis*'s Coffee-Houſe in St. *Martin*'s Court, near *Leiceſter-Fields*, *London*, Charged 10 *d.* marked with the Poſt Mark *Oct.* 22. dated à *Paris le* 28 *Oct.* 1722. Sign'd *Diſode et Compie*, and both formerly and now marked by this Examinant.] is the Letter mentioned in his former Examination to have been by him received, directed to *Briſac*, and that the other Letter, directed to *Dupuy*, was taken from the Bar of his Coffee-Houſe unknown to him, and he has made all poſſible Enquiry how it happen'd, but he has not been able to diſcover it, nor to find out for whom either of the ſaid Letters were intended.

Wm. Sturgis.

Capt' & Jurat' 8 *die* Januarij, 1722-3.
coram me
Ch. Delafaye.

A Paris le $\frac{17}{28}$, *Octobre*, 1722.

A Letter from Mr. Diſode *and* Comp. *to Monſ.* Briſac *at* Sturgis's *Coffee-Houſe, in St.* Martin's *Court near* Leiceſter-Fields, *London.*

Monſieur,

IL y a deux Ordinaires que Monſ. Bonnaville *a ecrit à Mademoiſelle* Ireton, *par la voye de M.* Andrews, *pour luy faire connoitre, que l'arreté de conte envoye per* G. Saunders, *n'eſtoit pas encore parvenu à ſes Mains. Ce Marchand reſte encore à la Campagne, mais il a envoye ce paupuer par ſon anu* D. Gainer, *qui l'a eſte voir ; ainſy vous pouvez dire a la Demble que nous ſommes preſentment enaſtat de regler avec Elle.* Dupuis *vos Lettres du 27 et 31. du paſſe,* V. S. *nous n'avons rieu recu de vous, ce qui donne de la peine. La Poſte du* Judy *paſſe n'eſt pas a la verite encore arrivee, ainſi nous ſommes encore dans l'eſperance d'une lettre de votre part.*

Ayer la lonte de dive en paſſant a Monſ. Dupuy, *Que nous aveus deux Lettres de Change a luy envoyer, qu'il recevra par l'ordinaire prochain : Car il eſt bon qu'il ſoit averti d'avance, puiſqu'on dit communement icy, que l'on ouvre toutes les Lettres chez vous ce qui derange beaucoup le Commerce. Il faut eſperer que la tenue du Parlement fera mettre fin a votre vilain complot a propes. L'on m'a dit icy hier au ſoir qu'une certaine, Madamme* Hughs, *a qui nous avons paye de l'argent icy pour ſon voyage d'*Italie, *fait preſentement grand bruit dans ces Affaires : Elle me reſte redeuable de quelque choſe en mon particulier, et comme on me dit qu'elle a des penſions, j'eſpere qu'elle voudra bien me payer. Je vous prie de me donner de ſes nouvelles par le 1. Ordinaire.*

J'ay demandé a M. Ireton *le'clairciſſement de l'Affaire de Mr. N,* Cleton, *le dont nous ſommes fort en inquietude : j'eſpere qui 'elle vondra bien nous en donner une Idée fort juſte et fort etendue.*

Comme les Occaſions de tirer des Lettres de Change ſont a preſent plus frequentes qu' a l'ordinarie, nous vous Supplions d'être fort regulier dans vos Lettres d'avis.

L'abſence de la Cour nous prive de Nouvelles qui peuvent inter eſſer le Commerce : Ainſi je finis, en vous priant de me croire avec verité,

Monſieur,

Votre très humble & tres obeiſſant Serviteur,

Diſode et Compa.

E. 78.

The TRANSLATION.

Paris $\frac{17}{28}$*th October* 1722.

Letter from Mr. Diſode *to Mr.* Briſac, *at* Sturgis's *Coffee-Houſe, in St.* Martin's Court, *near* Leiceſter-Fields, *London.*

SIR,

TWO Poſts ago Mr. *Bonnaville* wrote to Mrs. *Ireton* by the way of Mr. *Andrews*, to let her know, that the Book of Accounts ſent by G. *Saunders*, was not yet come to his Hands. That Merchant continues ſtill in the Country; but he has ſent this Paper by his Friend *D. Gainer*, who went to ſee him; ſo you may tell the Gentlewoman, that we are now able to ſettle Matters with her. Since your Letters of the 27 and 31 paſt, O. S. we have received none from you, which gives uneaſineſs. *Thurſday*'s Poſt, indeed, is not yet come in, ſo we are ſtill in hopes of a Letter from you.

Be ſo good, as you paſs by, as to tell Mr. *Dupuy*, That we have two Bills of Exchange to ſend him, which he will receive by next Poſt: For it is proper he ſhou'd have Notice before-hand; it being commonly reported here, That all Letters are opened on your Side, which greatly diſorders Trade. One muſt hope that the Sitting of the Parliament will put an End to your ugly Plot. Now I think on't, I was told here laſt Night, That one Madam *Hughes*, to whom we paid Money here for her Journey to *Italy*, is now very buſy in thoſe Matters; ſhe owes me ſomething on my own private Account, and being told ſhe has Penſions, I hope ſhe will pay me. I deſire you to give me an Account of her by the firſt Poſt.

I have asked of Mrs. *Ireton* to explain the Affair of Mr. *N. Cleton*, about which we are very much perplex'd; I hope ſhe will vouchſafe to give us a very juſt and full Notion of it.

As

As Opportunities of Drawing Bills of Exchange are at preſent more frequent than uſual, we beg of you to be very regular in your Letters of Advice.

The Courts Abſence deprives us of News that might affect Trade: So I conclude, deſiring you to believe me to be with Truth,

SIR,

Your moſt humble and moſt
Obedient Servant,
Diſode *and* Comp.

E. 79.

A Paris $\frac{2^{9}}{11}$, *Oct.* 1722.

A Letter from Monſ. Bonnaville *to Monſ.* Dupuy, *at* Sturgis's *Coffee-Houſe in St.* Martin's *Court, near* Leiceſter-Fields.

LA Lettre du 11 *courant que vous m'avez ecrit m'a eſté rendu hier au Soir, et le petit Marchand* Francois *dont vous avez fait mention eſt arrivé le jour precedent. Il a rendu compte à Monſ.* Deſode *des Effets dont il eſtoit chargé et l'onuſera, de la precaution que vous avez recommandé à Sou egard, en attendant qu'un autre ſe preſente avec, qui nous pourrous parler d'affaire plus a profit.*

M. D. Gainer *m'a prié de vous faire ſes Compliments, et de vous dire qu'il ſonge tres ſerieuſement aux Commiſſions dont vous l'avez chargé pour vos amis. Il ne refuſe pas d'y mettre tout ſon credit, mais il eſt bon de vous dire, qu'un ſeul Article a conſommé la Lettre de Change que Mr.* N. Cleaton *a envoyé, et qu'il n'en eſt point venue d'autre, dont Mr* D. Gainer *ait connoiſſance.*

Mr. G. Sanſon *ſe porte à preſent mieux, mais il ne ſe trauve pas encore en etat de paroitre en public, en attendant il a envoyé ſon projet d'accommodement pour eſtre communiqué à Mrs.* K. Phillips *et* V. Armsby, *dont il attend le Reſultat.*

J'auray ſoin du Coffre que vous m'avez recommendé et ne manqueray pas d'en parler aujourdhuy à celuy à qui vous l'avez addreſſé.

Je ſuis avec verité,

MONSIEUR,

Votre tres humble et tres
Obeiſſant Serviteur,
Bonnaville.

Avaunt de fermer ma Lettre. Mr. D. Gregory *m'eſt venu trauver et voyant que je vous ecrivois, il m'a prié de vous mander, que l'occaſion s'etant preſente d'envoyer quelques Emplettes par le retour de Mrs.* Contade *et* Lunelle, *qui ſont votre connaiſſance pour le Compte de Madamoiſelle* Ireton, *vous auvez done la bonte d'avertir la dite Demoiſelle afin qu'elle envoye unde ſes Commis pour les aller retirer, parceque cela doit eſtre arrive preſentement. Dites luy auſſi qu'ille ait ſoin d'en accuſer la reception.*

Adieu.

E. 79.

The TRANSLATION.

Paris $\frac{2^{9}}{31}$ *Octob.* 1722.

A Letter from Mr. Bonnaville, *to Mr.* Dupuy, *at* Sturgis's *Coffee-Houſe in St.* Martin's Court, *near* Leiceſter-Fields.

THE Letter you wrote me, of the 11th Inſtant, was delivered to me laſt Night, and the little *French* Merchant you mentioned, arrived the Day before. He has given an Account to Mr. *Diſode*, of the Effects with which he was charged, and the Precaution will be uſed which you recommended, with Relation to him, till ſome other appears, with whom we may talk of Buſineſs more to the purpoſe.

Mr.

Mr. *D. Gainer* has desired me to make his Complements to you, and to tell you, That he thinks very seriously of the Commissions with which you have charged him for your Friends. He does not refuse to employ his whole Credit in them; but it is fit I should acquaint you, that one single Article has consumed the Bill of Exchange which Mr. *N. Cleaton* sent, and that there is not any other come that Mr. *D. Gainer* knows of.

Mr. *G. Sanson* is better at present, but is not yet in a Condition to appear publick. In the mean time, he has sent his Proposal for an Accommodation, to be communicated to Mrs. *K. Phillips*, and *V. Armsby*, of which he waits the Issue.

I shall take Care of the Trunk you have recommended to me, and I shall not fail to speak of it to Day with him, to whom you have directed it.

I am with Truth,

SIR,

Your most humble and most obedient Servant,

Bonnaville.

Before I closed my Letter, Mr. *D. Gregory* came to me, and seeing I was writing to you, he desired me to acquaint you, That an Opportunity having offered of sending some Things he had bought, by the return of Mrs. *Contade* and *Luselle*, who are your Acquaintance, for Mrs. *Ireton's* Use, you will therefore be so good as to give that Gentlewoman Notice, that she may send one of her Clerks to fetch them, for they must be arrived by this Time: Tell her likewise to be careful to acknowledge the Receipt of them. Adieu.

E. 80.

The Account *of* John Hutchins's *Journey to* Horn-Dean. *Given upon* OATH, 19 *Feb.* 1722.

JOHN *Hutchins*, of the Parish of St. *Margaret Westminster*, maketh Oath, That having on the 22d Day of *December* last received the Lord *Townshend's* Orders, to go to *Horn-Dean*, a little *Hammell* in *Hampshire*, about seven Miles beyond *Petersfield*, in the great Road to *Portsmouth*, to seek for Mr. *Carte*, a Nonjuring Clergyman, of whom there was a Suspicion, that he lay concealed there with one *William Basing*, who keeps a publick House in the said *Hammell*: He accordingly repaired thither, and was informed, That the said *Basing's* House is frequented by Persons disaffected to His Majesty and his Government; particularly, that Sir *Harry Goring* had used often to come to the said House, with one *Caroll* a Papist, who lives at *Clanfield*, a little Village, about two Miles distant from *Horn-Dean*; and that the said Sir *Harry* used often to resort to the said *Carroll*, and to abide with him in his House three Weeks or a Month at a Time; and after three Days Stay at *Horn-Dean*, the said *John Hutchins*, not being able to get any Information of the said *Carte*, he returned Home.

John Hutchins.

Jurat' 19, die Februarij 1722-3.
coram me
Ch. Delafaye.

The

The EXAMINATION of George Kelly, Clk. before the COMMITTEE of the HOUSE of COMMONS, on the 2d of February, 1722.

1. *WHAT Particulars have at any time come to your Knowledge relating to the Conſpiracy?*

THE firſt Queſtion being read to him, he ſays, He is bound to defend his Life, that therefore, before he proceeds to make any Anſwer, he inſiſts, That nothing which he ſhall now ſay ſhall be made uſe of againſt his own Life, and likewiſe inſiſts, That what he ſhall now ſay, ſhall not be made uſe of as Evidence againſt any other Perſon; and on theſe Conditions he promiſes to anſwer directly to all the Queſtions the Committee ſhall think fit to ask him.

His Words being taken down in Writing, he was ordered to withdraw, and the Committee having reduced their Anſwer into Writing, he was again called in, and it was read to him in the following Words.

The Committee have conſidered of the Two Conditions you inſiſt upon, and as they are already furniſhed with Evidence ſufficient to convince them of your Guilt, you muſt be ſenſible, That a candid and ingenuous Confeſſion of all you know relating to the Conſpiracy, will be the moſt effectual Means to ſecure your own Life, and to engage the Interpoſition of the Committee in your Favour; and the Committee promiſe you, That what you ſhall now confeſs, ſhall not be made uſe of as Evidence againſt your ſelf: But you muſt not expect, that what you ſay is to preclude the Government from making uſe of that Evidence againſt other Perſons which they are already in Poſſeſſion of; or from making uſe of the Evidence which they have already againſt your ſelf, unleſs you ſhould merit that Favour and Indulgence by a very open and ſincere Confeſſion.

Being ask'd, Whether he would have the Anſwer read over to him again, he ſays, It is not neceſſary, he underſtands the meaning of it very well.

The firſt Queſtion being then read over to him again, he ſays, If by the Conſpiracy is meant, what is ſet forth in the publick Papers, an Inſurrection, an Invaſion, or a Deſign of deſtroying his Majeſty's Perſon, he is an entire Stranger to any thing of that kind; he ſuppoſes there are particular Heads of Examination drawn up, to which he is ready to anſwer.

Being ask'd by the Committee, What Occaſion he could have to apprehend that his Confeſſion ſhould affect his Life, if he is entirely ignorant of every thing relating to the Conſpiracy, he ſays, The Committee have Letters of his, and he do'nt know what Explanation they may put upon them, nor how far his owning them to be his, might affect him on a

Tryal, but however, ſays, he will anſwer directly and fairly.

Being again order'd to withdraw, the following Words were reduced into Writing, and upon his being called in, were read to him.

The Committee obſerve ſuch an Inconſiſtency between what you ſaid when you were laſt in, and the Conditions you inſiſted on at firſt, that they have thought fit to retract the conditional Promiſe read to you when you were laſt call'd in, and they leave it to your Conſideration, Whether your Behaviour hitherto has been ſuch as might be expected from you before a Committee of the Houſe of Commons, and ſuch as you are willing to have reported to the Houſe.

Then the Second Queſtion was read to him.

2. *How often have you been out of the Kingdom for theſe Three Years laſt paſt, to what Places did you go, at what times, and on what Buſineſs?*

To this Queſtion he anſwers, That he went to *France* the latter end of the Winter, 1721. and again in the Spring following, about private Affairs relating to the Stocks, and correſponded with the two *Carrols*, Bankers, on that Subject; and becauſe they were undone, directed to them by a Fictitious Name, which he has ſince forgot; that he had likewiſe Tranſactions with *Frenchmen*, but that he never in his Life receiv'd a Letter directed by a Fictitious Name, except ſome at *Burton*'s Coffee-Houſe, which he took up for *James Talbot*, after *Talbot*'s being gone to *France*: That the Occaſion of *Talbot*'s going abroad, was, That he had received Accounts that General *Crofton* was dead, and had left him what he had.

3. *Did you in any of your Journies abroad carry or bring back Meſſages, Letters, or other Papers relating to the Conſpiracy, from whom, and for whom?*

To the Third Queſtion he anſwers in the Negative.

4. *Did you confer with General* Dillon, *the late Lord* Mar, Chriſtopher Glaſscock, Colin Campbell *of* Glenderoule, *or* Alexander Gordon *of* Boulogne *during your Stay in* France *laſt Spring, and what was the Subject of your Conference?*

To the 4th, he anſwers, That he carried over an Act of Parliament to General *Dillon*, relating to an Eſtate of that Family; but that this was the only Paper he carried.

That he never ſpoke to the late Lord *Marr* in his Life, nor is at all known to him.

That he did during his Stay in *France* ſee *Chriſtopher Glaſcock*, who is a Captain in *Dillon*'s Regiment, and likewiſe ſaw *Colin Campbell* of *Glenderoule* at Coffee-Houſes, but never ſpoke to him. He ſays, That Sir *John D'Obryan* is *Dillon*'s Secretary.

5. *Had you any Diſcourſe or Correſpondence, and with whom, about ſetting up* By-Boats *between* London *and* Boulogne? *Was you ever ſhewn a Scheme for that Purpoſe, and by whom, and to what End were ſuch Boats to have been ſet up?*

To the Fifth Queſtion he anſwers in the Negative.

6. *At*

6. *At what Time did you laſt return from* France? *Did you go out of Town ſoon after your Return, to what Place, and on what Occaſion?*

To the Sixth he ſays, That he return'd from *France* on a *Monday* Morning, and did not go out of Town till the *Thurſday* Se'night after; that he then went to *Chelſea*. That he lay at Mrs. *Barnes's* the firſt Night, and four or five Nights after; and at his Lodgings ten or twelve Nights after that, as he is able to prove by the People of the Houſe.

7. *Do you know of any Bills of Exchange ſent from* London *to* Calais, *and thence to* Paris, *ſoon after your laſt Return to* England? *By whom were they drawn, on whom, for what Uſe, and what were the Summs?*

To the Seventh he anſwers in the Negative.

8. *Were you ever made privy to the raiſing any Summs of Money, or the buying any Arms for the* Prerender's *Uſe, and by whom?*

To the 8th, he ſays, That he is a Stranger in *England*, and that it is not probable any one ſhould make him Privy to any ſuch Affair.

9. *Did you ever Advertiſe any one, or do you know where ſuch Summs of Money were lodg'd; or did you ever receive Inſtructions, and from whom, how ſuch Summs of Money ſhould be diſtributed?*

The Ninth Queſtion depending on the foregoing was not read to him.

10. *Did you ever receive any Letters from Foreign Parts directed to* Joſhua Vernon, Anthony Saunders, James Baker *or* Arthur Stephens? *from whom, and on what Occaſion?*

To the Tenth Queſtion he ſays, That he receiv'd no Letters ſo directed; that he took up one Letter at *Burton's*, but has forgot the Direction; that all he took up there were for *James Talbot*.

11. *Did you ever receive any Letters from Foreign Parts, directed by the Names of* David Wilkins, *Mr.* Andrews, *or Mrs.* Ireton; *or did you ever deſire any one, and whom, to take in Letters for you ſo directed?*

To the 11th. he anſwers in the Negative, as to the Name of *Wilkins*, but ſays, That one Mrs. *Oxburgh*, who lives in *Aldermanbury*, and is Daughter to him that was executed, ſpoke to him to take in ſome Letters for her, and that he ſpoke to ſome Friend to do it, whether it was *Andrews*, or ſome other he does not know; neither does he know how the Letters were directed; That the ſaid *Andrews* is to be found in St. *James's-Street*; that his Lady had alſo a Bill, which ſhe deſired him, *Kelly*, to get accepted; that he went himſelf and received the Money on the ſaid Bill, of a little Man, a Banker in *Lothbury*, or ſomewhere behind the *Exchange*, whoſe Name he has forgot, having no Dealings with him; that he, *Kelly*, endors'd the Bill with his own Name.

12. *Had you ever any Cyphers in your Cuſtody? who had the Counter-Parts of thoſe Cyphers; and what Correſpondence was to be carried on by means of them?*

To the 12th Queſtion, he anſwers in the Negative.

13. *Did you ever Copy any Cypher in your own Hand, and deliver the ſame to any one? From whom did you receive it, to whom deliver it, and for what uſe?*

To the 13th. Queſtion he anſwers in the Negative, and being ſhewn the Cypher referr'd to in the Queſtion, ſays, he never ſaw it before, nor does he know whoſe Hand-Writing it is.

14. *Do you know any Perſon denoted by the Fictitious Names of* Thomas Trotter, George Williams, *or* C. Saunders?

To the 14th Queſtion, he anſwers in the Negative.

15. *Do you know any denoted by the Fictitions Names of* Collins *and* Glan ?

The 15th. 16th. and 17th. Queſtions were not read to him.

16. *Do you know any one denoted by the Fictitious Name of* Pringle ?

17. *Do you know any one denoted by the Fictitious Name of* Crow ?

18. *Are you acquainted with* James Talbot ? *Did you ever receive any Letters from him* ?

To the 18th. Queſtion he anſwers, That *Talbot* is the moſt intimate Friend he has, but that he has not received any Letters from the ſaid *Talbot* lately.

19. *Is the Letter now ſhewn to you, his Hand Writing* ?

The 19th. Queſtion was read to him.

20. *At what Time, and on what Occaſion did* James Talbot *leave* England ?

The 20th. Queſtion, not read to him, being anſwered before.

21. *Do you know that* James Talbot *paſs'd through* Boulogne *in his way to* Paris, *or did you receive any Letter from him from* Boulogne ?

To the 21ſt. Queſtion, he anſwers, That he ſaw *Talbot* the Morning he left *England*, but that he does not know which Way he went, and that he received no Letter from him from *Boulogne*.

22. *Did you ſend any Meſſage or Packet of Letters to* Alexander Gordon *of* Boulogne, *to be delivered to the ſaid* Talbot, *from whom, and for whom* ?

To the 22d. he anſwers in the Negative, and ſays, he is a Stranger to *Talbot's Dealings*.

Being here ask'd by the Committee, Whether, at his firſt being called in, he intended to anſwer in this manner, or whether the Promiſe made him by the Committee, not appearing Satisfactory to him, occaſion'd his ſpeaking with greater Reſerve, he ſays, The Anſwer of the Committee was not Satisfactory ; and after ſome Pauſe, ſays, If it had, he could not have anſwer'd theſe Queſtions in any other manner.

23. *Do you know any Perſon that is, or was denoted by the Fictitious Names of* Nanton *or* Dubois ? *Did you ever ſee any Letters ſo directed, and in whoſe Cuſtody* ? *Did you ever explain to any one who was meant by either of the ſaid Names* ?

The 23d. Queſtion was not read to him.

24. *Do you know any Perſon at any time denoted by the Fictitious Names of* Jones, Illington, Rig *or* Weſton ?

To the 24th. Queſtion, he anſwers in the Negative.

25. *From whom, and for whom, was the Dog ſent which you received from* France ?

To the 25th. he ſays, The Dog was ſent him by a Surgeon in *France*, that he gave it to Mrs. *Barnes*, and that it was certainly deſign'd for Mrs. *Barnes*.

26. *Do you know any Perſon denoted by the Fictitious Names of* Chivers, Chitwood, Cane, Diſcomb, Digby, Dixwell, Dupleſſis, D. Gainer, D. Gregory, Clermont *or* Grandlieu ?

27. *Do you know any Perſon denoted by the Fictitious Names of* Lane, Muſgrave, *or* Motfield ?

28. *Do you know any Perſon denoted by the Fictitious Names of* Jackſon, Jacobs, Farmer, Freeman, Malcom *or* Manley ?

The 26, 27, 28, 29, 30, 31, 32, 33, and 34th. Queſtions having, in Effect, been denied by him in his former Anſwers, were not read to him.

29. *Do*

29. *Do you know any one denoted by the Names of* Manfield *or* Medley, *or did you ever explain to any one, who was meant by either of thoſe Names?*

30. *Were you ever directed to or denoted by the Names of* James Johnſon, George *or* James Hatfield, Hatley, Hawksby, Joſ. Andrews, *or* Jacob Williams? *or did you ever own to any One, your being directed to, or Signing Letters by any of thoſe Names?*

31. *Do you know any Perſon denoted by the fictitious Names of* Kite, Kirton, Killigrew, Sandford, St. George, D. St. John, D. Compton, Ormsby *or* Hubberts?

32. *Did you never receive Letters ſign'd by, or ſend Letters directed to* Howell, Quitwell, Querry, Maiſonneuve, Diſode *or* Bonnaville? *Or do you know any one denoted by thoſe Names, or by the Name of* Gerrard?

33. *Do you know Mr.* Martin Harrold, *of* Throgmorton *Street?*

34. *Did you ever receive any Bill from abroad, on* Martin Harrold, *and for what Sum? By whom was the ſaid Bill ſent you, and on what Occaſion, and by whoſe Hands was the money received?*

35. *Are you acquainted with* John Plunket, *now in Cuſtody? Did you ever write to him? Did you ever employ him in any Money Affair? Was you ever privy to his being employ'd by the Pretender and his Agents, and which of them?*

To the 35th. Queſtion he ſays, That he has ſeen People divert themſelves with *Plunket*, at Coffee-Houſes, as a Newsmonger, but never had any Dealing with him, nor writ to him, as he remembers. That *Plunket* had promiſed to help *Talbot* to 200 *l.* on Security, but that he knows of no other Money Tranſaction relating to *Plunket*.

36. *Do you know who is meant by the fictitious Name of* Jemiſon *or* Hore?

The 36th. Queſtion was not read to him.

37. *Did you ever know any Perſon denoted by the fictitious Name of* Watſon? *Or was you ever in Company with one ſo called? at what Times, and on what Occaſions?*

To the 37th. he anſwers in the Negative. Being ask'd whether he knew *Neynoe*, he ſaid, he never was in his Confidence, nor ten Times in his Company; and that he did not ſee him from *November* 1721. to the latter end of *April*.

38. *Did you ever employ any one, and whom, to draw up a Memorial, or Memorials, to the Regent of* France, *for procuring Foreign Forces to invade this Kingdom? By whom were you directed to cauſe ſuch Memorials to be drawn? Or to whom did you deliver them when drawn?*

To the 38, 39, and 40th. he anſwers in the Negative.

39. *Were you employ'd, and by whom? Or did you employ any one, and whom, to draw up a Letter in* March *laſt, on purpoſe to be intercepted by the Government, and to amuſe them into Security, in Relation to the Conſpiracy? From whom did you receive the Heads of that Letter, and to whom did you carry it to be corrected?*

40. *Were you ever made privy to the Deſign of publiſhing the Pretender's late Declaration? Or had you any Notice given you from abroad, that Copies of that Declaration would be ſent to you?*

41. *Did you ever receive Letters from abroad, directed by the Names of* Dupuy Briſac, Contade, *or* Lunelle? *Did you, ever deſire any one to direct to you by thoſe Names, or order any one to take up Lettees for you ſo directed?*

To the 41ſt. he anſwers in the Negative. Being put in mind, that thoſe Names were in his Pocket-Book, he ſays, The Names found there, belong to Perſons now in *France*, with whom he tranſacted Stock-Affairs many Years ago. That he received no Letters from *France* for two Months together. That he often went to *Slaughter*'s and *Sturgis*'s Coffee-Houſe, and has ſeen Letters there, directed by ſome of thoſe Names, but that it may eaſily happen there may be People in *England* of the ſame Names with others in *France*; that for ought he knows, theſe Names might be enter'd in his Pocket-Book while he was in *France*; that the Pocket-Book has lain by in an old Trunk for three Years paſt, and that, he never took it out till the Time he was taken up.

42. *Who is meant by Mrs.* Johnſon *and Mrs.* H—— *in your Pocket-Book* (page 1)?

43. *Who is meant by* Ca.--- i. (p. 2d.)? *And on what Account did you pay Money to him and* Bingley?

44. *Who are meant by the other Names* (p. 2d.) *and on what Account was the Direction in* French *there ſet down?*

45. *What is meant by Sir* H. G. *went to* F.--- (p. 9th.)? *By whom were you told that he went, and on what Occaſion did he go? Were you in Company with him before he went, or did you ſend any Letters or Cyphers by him?*

46. *Who are meant by the other Names in the 9th Page?*

47. *For whom were you to make Enquiry of* William Bayſing, *at* Horn-Dean, *and who is meant by Mr.* C. *in the 11th. Page?*

48. *What is meant by the Entry made in the 12 Page, beginning* per *Mr.* D.? *Who is* Wogan, *mentioned in that Page, and where did you pay him Money?*

49. *Are you willing to explain to the Committee, according to the beſt of your Knowledge, the Meaning of the ſeveral Letters, which they have good Reaſon to believe were writ, or received, by you?*

The remaining Queſtions were not read to him.

F.

PAPERS

RELATING TO

DENNIS KELLY.

F

Liſt of Papers relating to Dennis Kelly, *Eſq;*

1. EXtract of a Letter from Mr. *Crawford* to Lord *Carteret*. 1722, *May* 19.——30 *N. S.* Page 3
2. Examination of *Iſabella Grace*. *Auguſt* 1. ibid.
3. Examination of *Elizabeth Cooke*. *Aug.* 1. ibid.
4. Examination of *Jane Cooke*. *Aug.* 1. p. 4
5. Examination of *Elizabeth Ellis*. *Aug.* 1. ibid.
6. Examination of *Alice Parker*. *Aug.* 1. ibid.
7. Examination of *Patrick Dyer*. *Aug.* 6. p. 5
8. Examination of *Malachy Kelly*. *Aug.* 6. ibid.
9. Liſt and Quarters of his Majeſty's Forces in *G. Britain*. p. 6
10. Method propos'd for encouraging a Paſſage at *Bologne*. ibid.
11. Cypher in *Geo. Kelly*'s Hand writing, taken among *D. Kelly*'s Papers. p. 7
12. *Meſſieurs Arthur*'s Receipt for 1000 *l.* paid them by *D. Kelly*, for Mr. *Dillon*. 1718-19, *March* 7. p. 9
13. Letter from —— *Diſcombe*, to —— 1719, *December* 29. p. 10
14. —— *John Gerrard* to —— 1721, *September* 3. ibid.
15. Anonymous to —— —— *Dec.* 17. ibid.
16. Fragment of a Letter from *J. M.* p. 11
17. An Original Letter ſign'd *F. Macnemara*, to prove Hands. p. 12
18. Fragment of a Letter. ibid.

Copys taken at the Poſt-Office of

19. Letters from *Chivers* to St. *George*. 1722, *April* 28. 9 *May*, *N. S.* ibid.
20. *D. S.* to Mrs. *Digby*. *April* 30. ibid.
21. Letter from —— to Mr. St. *George*. *May* 5. 16 *May*, *N. S.* p. 13
22. *Chivers* to *Sandford*. *May* 9. 20, *N. S.* p. 14
23. *Cane* to *Sandford*. *May* 16. 27, *N. S.* ibid.
24. Extract taken at the P. Office of a Letter from *U. I.* to Mrs. *Digby*. *June* 7. ibid.

Copys taken at the Poſt-Office of

25. Letters from —— to Mrs. *Digby*. *June* 14. p. 15
26. *D. Compton* to Mrs. *Digby*. *July* 2. ibid.
27. Anonymous to Mr. *Sandford*. *July* 7. 18, *N. S.* p. 16
28. *Digby* to Mrs. *Sandford*. *July* 11. 22, *N. S.* ibid.
29. Original of the foregoing Letter taken upon *Dennis Kelly*.
30. Certificate of my Lord Viſcount *Townſhend*. 1722-3, *Jan.* 16. p. 17
31. Copys taken at the Poſt-Office of Letters from *D. St. John* to Mrs. *Digby*. 1722, *July* 16. ibid.
32. Anonymous to Mrs. *Sandford*. *July* 17. 28, *N. S.* p. 18

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11. b. Further Depoſition of *John Malone*. 1722-3, *Jan.* 29,
33. Examination of *Dennis Kelly*, Eſq; before a Committee of the Houſe of Commons. *Feb.* 2. p. 19

Extract of a LETTER *from Mr.* Crawford *at* Paris, *dated* May 30, 1722, N. S. *to Lord* Carteret.

THERE is one Capt. *Kelly* who frequents the *Coco Tree*, and *Will's* Coffee-Houſe, who is much in the Confidence of *Dillon*, and Lord *Lanſdown*. He was here ſome Months ago, and I am told he is very active at preſent in *England*.

F. 2.

The Examination *of* Iſabella Grace, *(the Wife of* Richard Grace) *Servant to the Lady* Bellew.

WHO ſaith, that ſhe had liv'd with her as her Woman ſeveral Years, that the ſaid Lady, with Mr. *Kelly's* Family, hath lodg'd at the *Cockpit* in *Whitehall* above a Year: Saith, That for ſome Months paſt Mr. *Kelly* has been ill of a Fever and Ague, and that his youngeſt Daughter has been ill of a ſpitting of Blood, which Diſtempers has occaſion'd their being, both Father and Daughter, one while at *Kenſington*, and ſince at *Chelſea*, for the Benefit of the Air. Mrs. *Kelly* has been out of Order alſo lately. Further ſaith, That for Recovery of the Daughter's Health, the Phyſicians advis'd her going over to *France* as ſoon as ſhe was able; and Mr. *Kelly*, with the reſt of his Family, deſign'd to go with her. Being ſhewn a Paper which ſhe own'd to be of her own Hand-writing, where it was ſaid, In *Lumber-ſtreet* is to be found, Made, Wife or Widdo, and her Siſter *Elizabeth Taylor*: And being aſk'd, Who is the Perſon intended by *Made, Wife, or Widdo*; She anſwers, that ſhe meant it of Mrs. *Anne Kembell*, or Mrs. *Elizabeth Taylor*, who waited on two Gentlewomen at the *Bath*: Being ſhewn a printed Paper, entitled, *A Letter from a Nobleman*, ſhe ſays, ſhe cannot tell from whom ſhe had it.

Capt. 1° *die Auguſti* 1722. *Iſabella Grace.*
Coram nobis
Cha. Delafaye.
S. Buckley.

F. 3.

The Examination *of* Elizabeth Cook, *Servant to Mrs.* Kelly, *Wife of Mr.* Dennis Kelly.

WHO ſaith, that ſhe hath liv'd with her almoſt ſeven Years: That about 16 Months ago her Miſtreſs, Children and Servants came to lodge at the *Cockpit*, *Whitehall*; at which Time Mr. *Kelly* was out of *England*; but about the beginning of laſt Winter he came to the *Cockpit*; within a little Time after his Return, an intermitting Fever occaſion'd his going to the *Bath*, where he ſtay'd about two Months. He has had ſevere Fits of an Ague ſeveral times this Summer, and therefore went firſt to *Kenſington*, and afterward to *Chelſea* for the Benefit of the Air, his youngeſt Daughter being extremely ill there, of a ſpitting of Blood; for the cure of which the Phyſicians advis'd her going to *France* as ſoon as ſhe was able. Her laſt return of ſpitting of Blood was about a Fortnight or three Weeks ago, which occaſion'd her Father's being with her then at *Chelſea*. Mrs. *Kelly* was out of Order about three Weeks or a Month ago.

Capt. 1° *die Auguſti*, 1722: *Elizabeth Cook:*
Coram nobis, Cha. Delafaye.
S. Buckley.

F. 4.

The Examination *of* Jane Cook, *Servant to Mrs.* Frances Arabella Kelly, *Eldeſt Daughter of Mr.* Dennis Kelly.

WHO ſaith, that ſhe has liv'd ſix Years in the Family, which for about a Year and half paſt has lodg'd in the *Cockpit*. That Mr. *Kelly* has for ſeveral Months paſt been often ill of a Fever and Ague, which occaſion'd his going for the Air ſometimes to *Kenſington* and to *Chelſea*, where was alſo his youngeſt Daughter *Anne*, who had been taken with a Spitting of Blood. That young Lady was to have gone to *France*, it being on her Account the Family was to go thither. This Examination further ſaith, that Mr. *Kelly*'s Wife has been ill of late, falling ill about a Month ago. That the Phyſicians advis'd the ſaid Daughter's going to *France*, and aſſoon as it was found ſhe was able to travel, the Journey was fix'd.

Capt. 1° *Auguſti* 1722. *Jane Cook.*
Coram nobis
Cha. Delafaye.
S. Buckley.

F. 5.

The Examination *of* Elizabeth Ellis, *Servant to the Lady* Bellew.

WHO ſaith, that ſhe has liv'd with that Lady, and with Mr. *Kelly* in one Family at the *Cockpit*, *Whitehall*, for ſixteen Months paſt or thereabouts. That when ſhe came into that Service, Mr. *Kelly* was abſent from the Family, on Account of his Health, and that about the beginning of Winter he came to his Lodgings in the *Cockpit*. That ſoon after his Return, he was taken ill, and therefore went to *Bath* for about a Month. From which time he has liv'd moſtly at the *Cockpit*; but having frequently had returns of an Ague, has often gone to *Chelſea* or *Kenſington*, for two or three Days and Nights at a Time. Further ſaith, that his youngeſt Daughter Mrs. *Anne Kelly* was taken with a Spitting of Blood between two or three Months ago, and about three Weeks ago, had a Return of that Spitting of Blood; for which Illneſs ſhe was at *Kenſington* one while, and afterwards at *Chelſea*. The ſaid Daughter was to have gone with Mr. *Kelly* and his Family to *France*, and it was chiefly for her Health the Journey was undertaken. She, the Examinant, has been abſent from the Family for about three Weeks paſt, except within theſe three or four Days.

Capt. 1° *die Auguſti* 1722. The Mark of *Elizabeth Ellis.*
Coram nobis
Cha. Delafaye.
S. Buckley.

F. 6.

The Examination *of* Alice Parker, *Servant to Mr.* Dennis Kelly.

WHO ſaith, that ſhe has liv'd with him above a Year and a Quarter, as Cook, her Maſter was not with his Family at the *Cockpit*, *Whitehall*, when ſhe firſt came into the Service, after ſhe had been there about three Months, her Maſter came home. He had ſoon after an Ague and Fever, which occaſion'd his going to *Bath*. He return'd home about *Chriſtmas*. That in *April* and *May* he had ſuch a ſevere Return of his Fever and Ague as confin'd him to his Bed ſeveral Days, and Servants ſat up with him,

ſoon

ſoon after his Recovery of that Fit, he went to *Kenſington* for Air, where his youngeſt Daughter *Anne* was for Air likewiſe, being ill of a Vomiting and Spitting of Blood. He had a Return of his Fever and Ague about a Fortnight or three Weeks ago, and ſometimes lay in the Country two or three Nights together, in the ſame Houſe where his ſaid Daughter was, which Daughter was to have gone to *France*, by the Advice of Phyſicians, to uſe ſome Medicinal Waters for the Recovery of her Health. They were to have gone ſooner, but the young Lady was too ill to be removed. Further ſaith, That Mrs. *Kelly* (Wife of Mr. *Dennis Kelly*) was ill about a Fortnight ago.

Capt. 1mo die Auguſti 1722. The Mark of *Alice Parker.*
Coram
Cha. Delafaye.

F. 7.

The Examination *of* Patrick Dyer, *Servant to Capt.* Dennis Kelly;

WHO ſays, That he hath liv'd with his ſaid Maſter for about eight Months laſt paſt; That when he firſt came to his ſaid Maſter, he lodg'd at the *Cockpit* in *Whitehall*, but being often ill, went frequently to *Kenſington*, and afterwards to *Chelſea*, at the former of which Places he once lay conſtantly for a Fortnight together, for the Benefit of the Air. That his Maſter us'd the *Britiſh Coffee-houſe*, and ſometimes, but very ſeldom, went to the *Coco-Tree Chocolate-Houſe*. That about a Fortnight or Three Weeks ago, his ſaid Maſter had a ſevere Fit of his Ague and Fever. That the Occaſion of his Maſter's going to *France*, was chiefly on Account of his Daughter's Illneſs. That they were to have gone ſooner, if the State of their Healths had permitted.

Capt 6to die Auguſti 1722. The Mark of *Patrick Dyer.*
Coram me
Cha. Delafaye.

F. 8.

The Examination of Malachy Kelly *Servant to Capt.* Dennis Kelly;

WHO ſays, That he hath lived in the Family about two Years; That when he came to it, they dwelt in *Bennet-ſtreet*, *St. James's*; That his Maſter was then with the Family; That about a Year ago he left the Family, and was abſent ſeven or eight Months, and, as the Examinant was told, went about the *Miſſiſſippi* Buſineſs, but into what Country the Examinant does not know: That his ſaid Maſter returned a good while before *Chriſtmas* to his Family, which was then removed to the *Cock-pit*, and being ill, went ſoon after to *Bath*; That he was now going to *France* for the recovery of his Health, and his Daughter's, who was ill of a violent Cough, and Spitting of Blood, as the Examinant hath been informed, and that they were to uſe the Waters of *Aix la Chapelle*, as he has heard. That ſince his Maſter's return from *Bath* he has had frequent returns of his Illneſs, and uſed to go and lie at *Kenſington*, and afterwards at *Chelſea*, for the benefit of the Air. The Examinant further ſays, That he knows Mr. *Johnſon* alias *Kelly* who ſometimes viſited his Maſter, but never heard his Name was *Kelly* 'till he was lately in Cuſtody.

Capt. 6to die Auguſti 1722. *Malachy Kelly.*
Coram me
Cha. Delafaye.

F. 9.

A LIST of His Majeſty's FORCES in Great Britain.

Horſe-Guards and Grenadiers	In *London.*
Royal Regiment of Horſe-Guards	3 *Newbury* and *Spinham* Lands, 3 *Farnham*, 2 *Staines*, 1 *Hounſlow.*
Lord *Cobham's*	2 *Newport-pagnel*, 1 *Stony-Stratford*, 1 *Oundle*, 2 *Daventry*, 1 *Toceſter*, 1 *Welenborough*, 1 *Harborough.*
Lord *Londonderry's*	3 *Bermingham*, 3 *Wolverhampton.*
Major-General *Wade's*	2 *Sherborn*, 2 *Blandford*, 2 *Yeovil.*
Dragoons Royal Regiment	3 *Doncaſter*, 2 *Sheffield*, 1 *Rotherham.*
Royal *North-Britiſh*	2 *Darlington*, 2 *Biſhops-Aukland*, 2 *Bernard-Caſtle.*
Lord *Carpenter*	2 *Wakefield*, 2 *Leeds*, 2 *Bradforth.*
Major-General *Evans* Lord *Stairs's* *Kerr's*	*North-Britain.*
Major-General *Gore's*	2 *Dunſtable*, 2 *Luton*, 2 *Leighton.*
Brigadier *Honywood's*	1 *Kiniſter*, 1 *Shard*, 1 *Crookham*, 1 *Wincanton*, 1 *Braton*, 1 *Mere.*
Foot:	
1ſt, 2d, and 3d Regiments of Guards	In *London.*
Kirk's	In *North-Britain.*
1. General *Wills's*	1 *Kenſham*, 1 *Ponsford*, 1 *Philips-Norton*, 2 *Froom*, 2 *Bradford*, 2 *Trowbridge*, 1 *Marsfield.*
Colonel *Cadogan's*	1 *Alreſford*, 1 *Biſhops-Waltham*, 2 *Reingwood*, 2 *Rumſey*, 1 *Alton*, 1 *Odiam*, 2 *Iſle of Wight.*
Brigadier *Groves's*	1 *Arundel* and *Horſham*, 1 *Shoreham* and *Bright-Helmeſtone*, 1 *Lewes*, 1 *Laſthourn* and *Pemſy*, 1 *Batle*, 1 *Haſtings* and *Bexhill*, 1 *Rye* and *Appeldore*, 1 *Rumney* and *Lyd*, 1 *Hith*, 1 *Canterbury.*
Mountague's	*Berwick.*
Stanwix's	1 *Ottery*, 2 *Crediton*, 2 *Columpton*, 1 *Chadleigh*, 1 *Newton-Buſtell*, 1 *Moreton*, 2 *Topſham.*
Clayton's *Harriſon's* *Cholmley's* *Macartney's*	*North-Britain.*
Sabine's	2 *Namptwich*, 1 *Northwich*, 5 *Mancheſter*, 2 *Macleſfield.*

F. 10.

Method for Encouraging a Paſſage at Boulogne.

TWO Sloops, with Beds and Cabbins for Paſſengers, of about 30 Tons burthen, the one to be at *London*, the other at *Boulogne*, and to be obliged to part twice every Week for the River, and thence to *Boulogne*.

There is not the trouble of being carried to Governours, nor confined to Hours by the ſhutting of Gates, as at *Calais*.

There ſhall be two honeſt Men for Maſters, that will uſe civilly and diſcreetly all Paſſengers, and take care of all Goods they receive, and forward them as directed by thoſe that ſend them.

Theſe Sloops can part at any time with either Noblemen or other that will pay the Fraught either for *Dover* or *London*, as they chuſe.

Bills

Bills are to be put up at the *Change* of *London*, and other Publick Coffee-houſes, advertiſing the Publick of ſuch a convenient Paſſage: The like to be done in all Publick Places at *Paris*.

Thoſe Ships to be under the Direction of Mr. *Smith* Merchant at *Boulogne*, who will employ them for Paſſage, or Wines, *&c.* for the behoof of the Owners.

Boulogne is 7 Leagues nearer *Paris* than *Calais* is, and is a private and eaſy Landing-place, and every thing very reaſonable, in compariſon of *Calais*.

F. 11.

CYPHER *in* George Kelly's *Hand-writing, taken among Capt.* Kelly's *Papers.*

G*Ordon* Admiral	*Dempſy Drury*
Muskerry Lord	*Wallis Walker*
St. Aubin Sir *Jo.*	*Boyle Barry*
Carew Sir *William*	*Darcy Demer*
Pendervis Mr.	*Edmunds Eagle*
Goodall Mr.	*Emery Ethrington*
Coryton Sir *Jo.*	*Filpot Fowler*
Piper Capt.	*Gould Grimſton*
Trelawny General	*Gainer Gifford*
Courtney Sir *William*	*Henderſon Hamden*
Bamfield Sir *Cop.*	*Jennings Jaſper*
Chicheſter Sir Jo.	*Lownds Lawler*
Rolle Mr. *Jo.*	*Mead Milamay*
Wray Sir *Bouchir*	*Macartney Meredith*
Raſtrield Mr.	*Necomen Naſh*
Saul Major	*Panton Penyfeather*
Hawxſwell Mr.	*Parker Pain*
Cart Mr.	*Trotter Thomas*
Clincoſtrum Mr.	*Handcock Hyde*
M'kenzy Mr.	*Pringle Preſton*
Ceſar Mr.	*Lane Lawſon*
Campion Mr.	*Dean Danvers*
Glandaroul	*Collins.*

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F. 11.

T.

themſelves — — — 1655
towards — — — 1656

V.

unite — — — 1717
unfavourable — — — 1718
us — — — — 1719

W.

we — — — — 1804

WE make Oath, *That we verily believe this Paper to be written in the ſame Hand with divers Letters which have been open'd at the* General Poſt-Office *ſince* March *laſt, and were ſigned ſome with the Name of* J. Johnſon, *others ſeverally with the Names or Initial Letters of* Hatfield, J. J., G. H., Wilkins.

Jurat 1mo *die Januarii*, 1722-23,
Coram me
Cha. Delafaye.

John Lefebore.
Peter Thouvois.
Robert Clarke.

F. 11. *b.*

The further Depoſition of John Malone.

A Paper, being a Key of a Cypher, of Numbers and Cant-Names, ſworn by *Anthony Dagley*, and *Valentine Randall*, Meſſengers, to have been taken out of the Scrutore of *Dennis Kelly* Eſq; on the 29th of *July* laſt; and by *John Le Febore*, *Peter Thouvois*, and *Robert Clarke* Gent. Clerks in the Poſt Office, to be (as they believe) written in the ſame Hand with divers Letters that had been opened at the *General-Poſt-Office* ſince *March* laſt, and were ſigned ſome with the Name of *J. Johnſon*, others, ſeverally, with the Names or Initial Letters of *Hatfield*, *J. J.*, *G. H.*, and *Wilkins*; which ſaid Paper is mark'd ; being ſhewn to this Deponent, he ſays, He thinks it to be like the Hand-writing of *George Kelly*, mentioned in his former Depoſitions.

John Malone.

Jurat 29mo *die Januarii* 1722-23,
Coram me
Cha. Delafaye.

F. 12.

7 *March* 1718-19.

Meſſrs. Arthur's *Receipts for* L. 1000 *of* D. Kelly, *for* Dillon.

WE have received of *Dennis Kelly* Eſq; One Thouſand Pounds ſterl. for the uſe of Mr. *Dillon*, *London*, the 7th of *March* 1718-19. We ſay, Received, L. 1000.

Daniel and *John Arthur.*

making L. 23.500 *Tournois.*

F. 13.

29 *Dec.* 1719.

A Letter from Diſcomb, *to* - - - - - - - - -

THis private Letter is to inform you, That after taking the beſt Informations I could find, about the Stocks here, I have put in 233.465 Livres for Mr. *Kite* and my ſelf, to be equal Sharers in Gain and Loſs: This Sum muſt not ſtartle you, for I hope it will turn to Advantage; but as it was raiſed on my Credit, 'tis neceſſary you ſhould return your Part without any delay, which amounts to 116.732 Livres, 10 Sols, and will come to near *L.* 4000 *Engliſh.* I'm told by Bankers here, that you ought to get above *L.* 30.000 *French*, for each Thouſand Pound you ſend to *Paris*; and as Exchange varies very much of late, you may be better inform'd where you are; therefore pray take due care about this Particular, and to agree with the Perſon who makes the Remittance, how many Livres in *French* Money he'll give here for each Thouſand Pound paid him there. This is all the light I can give about the Matter, being little ſtil'd to Affairs of this kind; and can aſſure you this Bargain is the firſt I made of the ſame Nature, which I did for the better, and do hope it will prove ſo. If it happens that you are of the ſame opinion, and that it may be inconvenient to you to make the Remittance above mentioned; you are abſolute Maſter not to accept of the Bargain, in adviſing me of your Intention whether you will or not. On the whole, my Deſign in all this, is, to give you a ſmall mark of Friendſhip, and to engage you to come to theſe Parts, where, I believe, Money may be more uſefully laid out than elſewhere. I refer you to Mrs. *Jordrell* for more ample Information on this Account.

Pleaſe to allow me to give my moſt hearty Thanks for the Preſent of three Horſes, and the fine Watch you ſent me; 'tis too conſiderable to be received from any leſs dear to me than your ſelf, but do make no ſort of ſcruple nor difficulty to accept of it from Mr. *Kite*, upon whoſe true Friendſhip I reckon, as he may abſolutely depend on mine.

Diſcomb.

Your Anſwer to this, without Delay, under Cover to Mr. *Arthur* Banker here.

F. 14.

3 *Sept.* 1721.

A Letter from John Gerrard.

Dear Sir,

I Have had the Favour of your's of the 26th of *Auguſt*: I muſt own, no Marquis ever met with more Accidents than you did on the Road; I hope, another time you will let your Friends chuſe your Voitures; I made your Compliments to the Ladies you mentioned, and do intend to do the ſame to others of a more topping Rank, leſt there ſhou'd be any Jealouſies: As to the Cavaliers, I gave them all your kind Service, and do return theirs in the ſame manner; my little Couſin goes abroad theſe two Days, and is condemned to Water; I know but one Man in the World capable to put him out of his Rules; I wiſh they may meet. Mr. *Chivers* recommends the Incloſed to you, and aſſures you of his moſt ſincere and true Friendſhip, with his Compliments. Give me leave to preſent my humble Reſpects to the Ladies. I am with the greateſt Truth and Sincerity,

Dear Sir,

Your moſt humble and moſt obedient Servant,

John Gerrard.

F 15.

Wedneſday 17. *Dec.* 1721.

Anonymous, to - - - - - - - -

Sir,

I Had the favour of your kind Letter of the laſt *November*, and am in hopes all mine, intended to ſecond my Lord and Lady *Dillon*'s Deſire, are come ſafe to your Hands; be pleaſed not to deliver them 'till you hear again from me.

I ſhould

I ſhould be ſorry to leave it in the Power of any to accuſe me of denying to contribute all that depends on me to ſave a Family from the Prejudice accruing by the Foreclosure of Sir *Arthur Shane's* Mortgage; you have in your Poſſeſſion Proofs of my Sincerity and good Inclinations in this reſpect: but ſince I find that the meaſures I have propos'd to ſecure the Eſtate, are rejected, upon groundleſs Pretexts, I cannot but apprehend that my Condeſcenſion may do more Harm than Good, therefore am afraid I muſt be under the neceſſity of acting a contrary Part: I am fully ſatisfied and convinced, that my Lord *Dillon* means as I do, for the good of the Family, and to eaſe the Burden of troubleſome Debts; and I think, what I already writ on my Lady *Dillon's* Subject, ſhould be ſufficient to ſhew my true Intentions to comply with what was propos'd for her ſelf: but now that I find, from friendly and impartial Hands, that the Counſels of certain People do prevail, who, perhaps have their own private Intereſt much more in view than the Good of the Family, I believe my ſelf obliged in Honour and Conſcience to oppoſe their Deſigns. Therefore if I have not an Account by next Poſt, that the Bill propos'd, has been communicated to you, and that two Truſtees of my Nomination are admitted, as I have explain'd in precedent Letters, I muſt do all in my Power to oppoſe what may prove the entire Ruin of my Family.

In caſe the Objection made on account of the abſence of Truſtees, nam'd by me, takes place, that cannot reach Mr. *Dennis Kelly*; and I'm aſſur'd Mr. *George Gunning*, who is now in *London*, will not refuſe to charge himſelf with the like Truſt, at my Requeſt, and out of Friendſhip to the Family; by which no Difficulty ſhould remain with Perſons that mean to deal after a fair and friendly manner.

F. 16.

Fragment of a Letter from J. M.

But God's Will be done, I have Conſtancy enough to look Misfortunes in the face.

Pray write to me, and ſignify your Thoughts to me upon my preſent Undertaking. Tell Mr. *Dillon*, there is not a Man in *England* that loves our Country better than my Friend Sir *Harry*, who has lately given a very good Inſtance thereof, in my Lord *Scarſdale's* Company, where Mr. *Ivers* a Roman Catholick ſaid, That the King had ſo many *Iriſh* about him, that there was no room left for any *Engliſh* Man's entertaining the leaſt hopes. The other reply'd, and ſaid, It was not ſo; that he was ſorry there were not a great many of them about him; for that they were the Men of moſt Virtue about him, who upon all Occaſions had behav'd themſelves with more Virtue and Loyalty than any of his Subjects; and if the *Engliſh* were not with him, the greater was their Diſhonour, for they might be with him if they would: And further ſaid, That thoſe of 'em that were, had ſerv'd him and his Father but ſcurvily. Upon this, Words aroſe, and the Beau was near getting a broken Head from my Knight, who immediately made him as humble as a Setting-Dog. I have no more to ſay, but that I am,

Dear Dennis, *Your own*

J. M.

Fe. 4. 1721. loſt
to Lodgings —— 90 Livres
to *Cuttreys* &c. — 7 Livres 10 Sols
to Lackey
the 5th to woman of the Coach —100— 0—6
to waſh Woman for *Phi.* —— 002--10--0

Lady *Landſdown* ow at Cards
this night —— —— *L.* 12—10

with Lady *Jerſy*—90 whereof—*L.* 9—25
Lady *Landſdown*
with Lady *Marr feb* 146 fyts—30—0—0
due to Mr. *O Bryan*
due on *R. Carol.* 12 gun
due on Lady *Jerſy* —— 075—0—0
Loſt to *L. L.* with L. *Marr* —025—0—0
more Caſh by her to Cards —010—0—0

Feb. 27 1721.
Memorand. Paid to *Villars* for Board Wages at 3 ſeveral times 3 pieces that ſaid Caſh. } *L.* 22--10

Caſh pay'd to *Philip* —— 45—0—0
waſh woman —— —— 10—0—0

F. 17.

London, Nov. 4th, 1721.

A Letter from Fr. M^{c}namara.

Dear Sir,

I Am come to Town from my Lord *Mountague*'s within a very few Days, and have uſed my Endeavours to comply with your Letter which I found at my arrival, but hitherto no purpoſe. I do aſſure you I am extremely concern'd for't; But this you may aſſure your ſelf, that the firſt Money I touch, ſhall be applied to you; becauſe I would as gladly do you Juſtice, as to, Sir,

Your very humble Servant,

Fran. M'namara.

Mr. *Eddowes* is now eaſy upon what you write, becauſe he knows you are of this ſide of the Waters.

F. 18.

Fragment of a Letter.

Pray tell Mrs. *Ireton*
her the 1ſt Inſtant, I
of Mrs. *hore*, but what
if ſhe be in your P
Service to her, as a
in your neighbour
letter of the 24th, I
you, I embrace you
ſincerel

F. 19.

28 *April*
9 *May* 1722.

A Letter to Mr. St. George *at* Broder's Coffee-houſe *in* Pall-Mall, *from Mr.* Chivers.

Dear Sir,

I Writ to you by laſt Poſt, and deſired you ſhould advertiſe Mr. *Répney* that his Letter of the 16th of *April* O. S. came ſafe with the incloſed Bill of Exchange; and for fear of Accidents, I repeat the ſame again: The Poſt from your Parts expected; here Yeſterday, is not yet come; and as I intend to write at large by a ſure Hand, which * *parts very ſoon*, I ſhall not trouble you much at preſent. Pray tell Mr. *Hore*, with my kind Service, that he ſhall hear from me by the ſame Conveniency. My beſt Reſpects attend Friends with you, and do remain ever your's,

* In Cypher.

Chivers.

F. 20.

London, Monday *laſt of* April 1722.

A Letter to Mrs. Digby, (*under Cover To Monſ.* Walters *at* Paris) *from* D. S.

Dear Madam,

I Believe you had an Account from *Hatley*, of Mr. *St. George*'s late Indiſpoſition, which was a Fever and Ague; he is ſtill very weak, tho' has miſs'd his Fit two or three Days, and deſires me to aſſure you, and his dear Friend the Doctor, of his moſt affect. and humble Service. He has had the Favour of the D[illegible]'s Letter of the 28th Inſtant, and another of the 2d of *May* N. S., and had a Letter from *Calais*

writ

writ on this Day Seven-night from a Gentleman, by whom he ſent the Amplets for you he formerly gave an Account of, in his Letters to Mr. *Cane*, which he hopes have got ſafe to you, and hopes you will give him Advice of it as ſoon as poſſible; they were directed for Mr. *Waters*.

Repney is gone out of Town for a little while, ſo is *Coo. Duval*, who deſires his Compliments may be made to you in the kindeſt manner. Mr. *Hubert* ſhew'd your Letter of the 28th to him, with Injunctions to keep it to himſelf. Mr. *Pringle* has been here ſome Days, and waited on Mr. *Jemſon*, Mrs. *Royton*, and Mrs. *Howell*; the laſt is now in Town, but have not ſeen her theſe two Days. The Scrutiny about the City Election takes up all their Thoughts there, which *Royſton* ſays has been a great Detriment to his Affairs there, and is like to continue to the 10th of *May*, at which time the Writs are returnable, which muſt put an end to all further Scrutiny. You know that Lord *Peterborough* is made General of the Marines, ſince the death of Lord *Sunderland*; among the Papers of the latter, which were ſecured and ſearch'd by the Government: 'Tis reported great Diſcoveries are made of God knows what, and that an Officer, upon it, is diſpatcht away to *Holland* for 6000 *Swiſs* in that Service: But what Credit to give to this Story I cann't tell, tho' ſome will have it, that the preſent Sett of Miniſters want ſome Pretence for a Plot, and at the ſame time to caſt all the Calumny they can on the Memory of that Great Man: but I think 'em too Great Patriots, and too Vertuous Men, to be guilty of any dirty Work. All here are, as I am,

Dear Madam,

Moſt affectionately Your's,

D. S.

The Letter for *Cibber* was deliver'd after *Hatley* had peruſed it.

F. 21.

A Letter to Mr. St. George, *at* Broder's *Coffee-houſe in* Pall-Mall, $\frac{5}{16}$ May 1722.

(Not ſigned, but ſuppoſed from Mr. *Howell*)

Dear Sir,

THE Poſt I expected from your Parts laſt Night is not yet arrived, ſo that it is now 15 Days ſince I heard from you, I hope however, that neither Sickneſs nor Indiſpoſition have no Share in the Matter, and that this will find you in perfect Health.

I muſt repeat again what I mentioned in two preceedent Letters, which is to pray you will pleaſe to inform Couſin *Repney* that her Note of the 16th of *April* came ſafe with an incloſed Bill of Exchange.

I am told that all Letters are opened in your Poſt-Office, ſince Lord *Sunderland*'s Death, I conſent this ſhould have the ſame Fate, ſo it reaches you afterwards, as I believe it will, for I cann't imagine that the Miniſtry would put any ſtop to private Concerns.

Sir *Luke Schaub* enjoys perfect Health; I have not fail'd recommending your Friend's Intereſt to him as directed; he is very willing to be ſerviceable, but I cann'tell if he has the ſame Credit with Mr. *Walpole* as he had with the deceaſed Miniſter.

You know my Situation in a Foreign Country, and therefore do hope your good Offices will not be wanting to relieve me. My beſt Reſpects to Friends and Relations with you, and do remain ſincerely yours.

D *Adieu.*

A Let-

F. 22.

A Letter from Chivers *to Mr.* Sandford, *at the* Britiſh Coffee-Houſe *near* Charing-Croſs.

Dear SIR, *Wedneſday, May* 20, 1722.

I Receiv'd by laſt Poſt both yours of the 30th *April*, and 3d Inſtant, *O. S.* I am much oblig'd to you for the Accounts you give me of my private Concerns, and do hope you will continue doing ſo, it being neceſſary I ſhould be regularly inform'd, in order to take proper Advice, and govern myſelf accordingly, ſo much for particular Affairs.

Pray when you ſee Couſin St. *George*, tell him that mine of the 6th Inſtant is of no manner of Conſequence, and that I wrote to him the 16th, wherein I repeated what was moſt material in the former, except owning the Receipt of his Letter, I'm perſuaded thoſe abovementioned will be ſent to the proper Perſon, not being of uſe to any other.

You ſhall ſoon hear at large from me, and am ſo well aware of my old Friend Mr. *Aſleton's* jealous Temper, that I ſhall ſay nothing in reference to him, till a better Opportunity offers.

Pray deſire Mr. *Hipton* not to think of going into the Country, until he hears again from me, as he is charg'd with my Procuration, his Abſence might in a great Meaſure retard the Proſecution of my Affairs.

Pleaſe to let me know when the Parliament meets, and believe me, *Dear* SIR,

My moſt kind Service to Friends with you. *Ever yours*,

Chivers.

F. 23.

To Mr. Sandford, *at the* Britiſh Coffee-Houſe *near* Charing-Croſs, London.

Dear SIR, *Wedneſday, May* 27, 1722.

THIS Note is only to remind you of my own private Concerns which you are no Stranger to, they are now reduc'd to a Point, that I can neither advance nor retreat without the Aſſiſtance of my Relations, and as you have been always ſo kind as to ſolicite in my Favour, I hope you will continue doing the ſame, until I am enabled to adjuſt Matters to ſome Satisfaction, which I am told may be compaſs'd, if my Family can be induc'd to give a helping Hand. I am ſo much convinc'd of your Goodneſs, that I'll preſs you no farther on this Account, but do hope you will let me hear from you when leiſure permits.

We are told here, that the Noiſe of a Plot in your Parts, occaſions the opening of all Letters; let who will ſee this, ſo it reaches you afterwards.

I am in good hopes Colonel *Churchill* will be ſerviceable to me, he is really a worthy Gentleman, and I am much oblig'd to him for his kind Offers. *I am*,

Ever yours,

Cane.

F. 24.

To Mrs. Digby *under Mr.* Walter's *Cover.*

Dear Madam, *London, Thurſday, June* 7, 1722.

PRAY till Sir *Luke Schaub* with my humble Reſpects, that his next Neighbour, I am told, is a Spy upon him, and gives all the Intelligence he can to the King's Enemies, and therfore when he has any thing of Conſequence to tranſact, he had better propoſe it at his Country Seat. *I am*,

Yours, V. T.

A Let-

A Letter *to Mrs.* Digby, *under the Cover of Mr.* Arthur, *at* Paris.

Dear Madam, *London, June* 14, 1722.

COO. *Hubberts* being called on a ſudden into the Country, deſir'd me to let you know, that ſhe has not heard from you or the Doctor theſe ſix Weeks, which ſhe is ſurpriz'd at, conſidering ſhe has writ ſo often to you, and to Sir *Luke Schaub*, whoſe more conſiderable Affairs may very well excuſe him from anſwering Womens impertinent Letters. Coo. *Killegrew* wants to have the Dr's and Sir *Luke*'s Opinion about a Houſe for her and Family at *Paris*, in a good airy Part of the Town, for her own and Childrens Benefit, who require good Air: She deſires me to aſſure you, that ſhe'll not be wanting in her ſincere and hearty Endeavours to do you all the Service ſhe can with your Relations here, tho' the nature of Things and Perſons are ſuch, that ſhe deſpairs of doing you any eſſential Service at this Time, —— which I ſuppoſe Mrs. *Hore*, has amply convinc'd the Dr. of: Coo. *Killegrew* now waits only to hear from Sir *Luke Schaub*, or you, to know the Dr's. Opinion about the Air of *Paris*, &c. As for News we have none, but Lady *Mary Savage*, who was to have been married to the Duke of *Chandois*'s Son ſome Days ago, made another Choice of her own, and married Mr. *Tufton*, who has been ſome Years ago in *France*: He is next Heir Male to the Earl of *Thanet*, and a pretty Gentleman; he was at *Paris* in Lord *Stair*'s Time, when the D. of *Wharton* was there. One Mr. *Erskin*, Brother to the Earl of *Buckan*, and a nigh Relation of the late Lord *Mar*'s was brought hither Priſoner laſt Week from *Scotland*, on account, as 'tis ſaid, of being active in returning Money out of that Kingdom into *France*, in order to raiſe a Rebellion in *Scotland*; but be that as it will, he has been examin'd once or twice at the Secratary's Office, and is continu'd ſtill at Meſſengers Hands, and no body admitted to ſee him. I beg you make my Compliments to all Friends there, and believe I am,

Dear Madam,

Moſt ſincerely yours,

P. C.

F. 26.

To Mrs. Digby, *under the Cover of* Daniel Arthur.

Dear *Madam,* *July* 2, 1722.

MY Aunt *Killigrew* being out of Order, deſires me to make her Compliments to you, and to acknowledge the Favour of both your's of 24 of *June*, and 4 *July*, and to return you ten thouſand Thanks for all your Favours, my Coo. her youngeſt Daughter is ſtill very much out of Order, and had a late Return of her Spitting Blood, which is now a little better, and when ſhe is able to bear a Journey, my Aunt will ſet out with her Family, but has not yet determined whether ſhe'll go by *Diepe* or *Calais*, ſhe will take Coo. *Royton* and Coo. *Hore*'s Advice and Direction in her Affairs before ſhe goes, and would be glad ſhe could be ſo happy as to be of any Service to you here before ſhe leaves it.

Since the late Agreement betwixt the *Bank* and *South-Sea*, we have great hopes of the Stocks riſing, the rather that all Appearances of Trouble ſeem to be pretty well over, inſomuch that all our Camps are to break up next Month, and nothing now ſeems to take up our Politicians and Merchants Thoughts but how to reſtore our Trade and Credit, ſo that notwithſtanding, all the Shocks it met with of late, our Government is like in a little Time to be better, and more firmly fix'd than ever, ſo as to be out of all Fear, and in Defiance of all Attempts whatever of our Enemies at Home and Abroad. And our Parliament no doubt will meet with ſuch Diſpoſitions of ſupporting and aſſiſting the Government, as will enable them to act with more Vigour, which will quickly defeat all the Views of the Jacobites Party amongſt us, and re-eſtabliſh our

F. 26.

former Credit and Commerce, and then will be the proper Time for Sir *Luke* to ſell out, if he thinks he can lay out his Money to better Advantage, but that is ſubmitted to his better Judgment, though our Broker thinks as ſeveral in *Change-Alley* do, that our Expectations from the Parliament will be ſo great, that juſt before it meets will be the beſt time to Sell out, but as this is a ſort of Learning I am not well skill'd in, I do not pretend to adviſe one way or other, only tell what the Learned ſay on the Subject. Mrs. *Ireton* preſents her humble Service to you, but has not had a Syllable from the Doctor ſince ſhe came laſt to Town, Coo. *Duval* is gone into the Country for the Summer before this reaches you, I believe you'll have ſome ſurpriſing Accounts of ſome Friends with you, but mum for that. I am,

Madam,

Your moſt faithful, &c.

D. Compton.

F. 27.

An Anonymous Letter to Mr. Sandford *at the* Britiſh *Coffee-Houſe, near* Charing-Croſs.

My dear Friend, *Saturday, July,* 18, 1722.

IT is an Age ſince I heard from you, I hope this Note will find you and Family in good Health, and do wiſh it moſt ſincerely. Pray do you continue ſtill in the ſame Reſolution of coming to theſe Parts before the fair Seaſon is over; in this Caſe it will be neceſſary to give previous Notice, that due Preparation may be timely made for you and Partner, my beſt Reſpects to the latter, whom I am very impatient to be acquainted with.

Pleaſe to give my kind Service to my Relation Mr. *Cibbers* and Spouſe; I had no Account from the former this great while, who has not yet made Anſwer to my laſt Letter that paſs'd thro' your Hands, which, as you know, was very friendly and kind: Pray does this Gentleman intend ſoon for his own Country: How is his Health at preſent, and what Meaſures can your Friend take to fix Matters ſo, as Poſterity may not ſuffer by the ill Advice which I have ſome Reaſon to believe old Mrs. *Veres* is capable of inſinuating to Mr. *Cibber*: I deſire your good Counſel on this Point, and when I receive it I ſhall conſult Sir *Luke Schaub*, who, I am ſure, will do all in his Power to be ſerviceable to me. My moſt kind Service to my Relations and Friends in your Parts, when you have Leiſure an Account of their Welfare will be moſt acceptable to your faithful Servant.

Adieu.

I writ lately to you, and do hope my Letter went ſafe.

F. 28. 29.

To Mrs. Sandford, *at the* Britiſh Coffee-houſe *near* Charing-Croſs.

Dear *Madam,* *Wedneſday, July* 22, 1722.

PLEASE to receive my hearty Thanks for yours of the 2d Inſtant, the Accounts you give me of the Publick Credit and Stocks are pretty favourable, and I think we may now hope that the Government will take juſt Meaſures to fix both on a good and ſolid Foundation. As to my Share in them I cannot judge but imperfectly at this Diſtance, therefore muſt neceſſarily be directed by yours and Relations, in your Parts, Advice, which I hope to receive through your Hands, as alſo Forgiveneſs for treſpaſſing

ſo

ſo much on your uſual Goodneſs for me, the ſooner I am inform'd on this Score, I ſhall be the better able to adjuſt my ſmall Concerns, and the more that Sir *Luke Schaub* ſeems very willing to give me all the Aſſiſtance I could reaſonably wiſh for, either by Recommendation or otherwiſe.

I pray do me the Favour to aſſure Mrs. *Duval*, *Roſton* and *Hore* of my ſincere and unalterable Eſteem and true Friendſhip, I don't trouble them with unneceſſary Letters, believing a Compliment by a third Perſon may be as acceptable to Ladies who may not always have time to Spare, nor leiſure to Write, I deſire alſo that Mrs. *Killegrew* may receive here the Aſſurance of my beſt Reſpects, I am extreamly concern'd for her young Daughter's Ailement, but do hope in God her great Youth will ſoon get the better of it, it is certain the Air of this Country will be very favourable for her Indiſpoſition, and if ſhe comes ſoon here, it will be neceſſary to give previous Notice as mention'd in my laſt.

My kind Service to Couſin *Ireton*, I have write twice of late to her, you ſhall hear more at large from me in a few Days, and am as uſually, Dear *Madam*, for ever yours.

M. Digby.

I make Oath that I took this Paper out of the Pocket of *Dennis Kelly*, Eſq; when I apprehended him on the 28th Day of *July* laſt,

Jurat 26° die January 1722. *Enoch Mottram.*
Coram me
Cha. Delafaye.

F. 30.

Certificate of My Lord Viſcount Townſhend.

I Certify, that having employ'd a Perſon to enquire, who took up Letters at the *Britiſh* Coffee-Houſe directed to Mr. *Sandford* at that Houſe; the ſaid Perſon brought me Word, that the Man who kept the Bar of the Coffee-Houſe, told him, the Letters ſo directed were call'd for by one Mr. *Kelly* who frequented that Houſe.

Whitehall, Jan. 26, 1722-3. *Townſhend.*

F. 31.

A Letter *to Mrs.* Digby, *from* D. St. John, *under a blank Cover to Monſieur* Arthur Banquier a Paris.

Dear Madam, *Monday, July* 16, 1722.

MY Aunt *Killigrew* having laſt Week had a return of her former Diſorder, deſir'd me to acquaint you with it, and that ſhe has therefore put off her Journey to *Saturday* next, when ſhe and her Family deſign to ſet out, with God's Bleſſing, to viſit the Doctor whom ſhe longs extremely to ſee, to lay the State of her Health plainly before him, which ſhe can't ſo well appriſe him of by writing. Mrs. *Kirton* goes likewiſe the latter end of this Week to *Diep*, and from thence to *Roüen* in her way to *Paris*. She will write to Sir *Luke Schaub* the Minute ſhe lands the other ſide the Water, to beg the Favour of him to let ſome of his Domeſticks take a Lodging for her for a Fortnight, or a Month, until ſhe can look about her a little. She writ to him about a Week ago, which ſhe hopes he has receiv'd. I beg you will aſſure him of my moſt humble and unfeigned Reſpects. My Aunt receiv'd a Letter from you, dated the 4th Inſtant, which ſhe has acknowledged by me about a Week ago, as ſhe does now the Favour of yours of the 18th Inſtant, N. S. Coo. *Skinner* came laſt Night to Town, I was to wait upon her this Morning, but ſhe was gone out; to-morrow I hope to have better Luck, for I long to know how our Friends in

the Country do, and how the Fall of Stocks affect them. My Aunt has a great deal of Tit Tat to tell you of the Intrigues and Adventures of this Town, which ſhe'll ſoon give you an hiſtorical Account of to divert you. Coo. *Roiſton* is the only one of our Coos. now in Town. This Minute I had the Favour of yours of the 22. N. S. and have already made your Compliments, and Sir *Luke Schaub*'s to Coo. *Roiſton*, who is a ſincere humble Servant to both of you, and will readily help you in all the Miſteries of *Change-Alley*, as far as her Skill and Knowledge can aſſiſt you. Mrs. *Kirton* holds her Reſolution, as does Mrs. *Killegrew*, of ſetting out next Week; the former hopes to kiſs your Hands in a little time, and will inform you at large of your Friends and Stocks here, and deſires you will not take the Trouble of writing to her after this comes to your Hands, becauſe ſhe hopes to ſet out on *Saturday* next from hence for *Diep*, becauſe ſhe has a ſick Child that ſhe is afraid could not bear the Fatigue of a Land-Journey to *Dover*, and from *Calais* to *Paris*. I hope I need not aſſure you of my ſincereſt Reſpects for you and your Family; and that no body can be with greater Attachment than I am,

Dear Madam,

Your Moſt Faithful, and

Moſt Obedient Humble Servant,

D. St. John.

F. 32.

To Mrs. Sandford, *at the* Britiſh Coffee-Houſe *near* Charing-Croſs, London.

Dear Madam, *Tueſday, July* 28, 1722.

THO' I writ lately to you, not hearing from you theſe two laſt Poſts, makes me apprehend that yours and the young Ladies Ailment do ſtill continue, I heartily wiſh to have made a wrong Judgment, and that this may find both in good State of Health.

When you ſee my Couſin *Royſton* and *Hore*, pray make my kindeſt Service acceptable to them, you know my true Eſteem and Friendſhip for thoſe Ladies, but dare not venture to trouble them with an idle Letter till I have their Allowance for it, which with a ſure Addreſs, I ſhall expect by your Canal, for I hear your *Poſt-Office* in *London* is ſtill very precarious, tho' we are aſſur'd there is no more talk of a Plot, which as reported here, gave occaſion to open all Letters theſe three Months paſt.

I preſume my Couſin *Du Vall* is ſtill in the Country, pray when you write to her, don't forget aſſuring my beſt Reſpects, as alſo Mr. *Killigrew* and Family; Is the latter's intended Voyage dropt, and when ſhall your Friend the Doctor have the good Fortune of being acquainted with one he eſteems ſo much? I expect a punctual Anſwer to thoſe Queſtions, and that you will believe me very ſincerely.

Dear Madam ever yours,

Adieu.

Mr. *Digby* is gone to the Country, and deſir'd me to tell you that when you have any thing to command here, you ſhould apply to *Meſſieurs Chitwood* and *Dupleſſis* jointly or ſeverally, under Cover to Mr. *Hue's, Banker, rue de la Monnoyes.*

Exami-

Examination of Dennis Kelly, *Eſq*; *before a Committee of the Houſe of Commons*, Feb. 2, 1722.

TO the 1ſt Queſtion he Anſwers, that he knows none at all, not a Word, that he told the Committee of Lords of the Council he knew nothing, and can only now repeat the ſame.

1. WHAT particulars have at any time come to your knowledge relating to the Conſpiracy.

To the 2d Queſtion, he ſays he knows of no ſuch Liſt, nor ever ſaw it to his Remembrance.

2. From whom did you receive the Liſt and Quarters of His Majeſty's Forces found among your Papers, and for what uſe?

To the 3d Queſtion he Anſwers, that he knows of no ſuch Scheme.

3. From whom did you receive, or to whom communicate the Scheme for ſetting up By-Boats between *London* and *Bologne*; and for what purpoſe were ſuch Boats to have been ſet up?

To the 4th Queſtion he Anſwers, that he never correſponded in Cypher, nor in *fictitious Names*. Being ſhewn the Cypher, he ſays he never ſaw it before, neither does he know the Hand-writing.

4. From whom did you receive the Cypher found among your Papers? Whoſe Hand writing is it? Did you ever make uſe of that Cypher, or do you know who did? Who had the Counterpart of that Cypher, and what Correſpondence was to be carried on by means of it?

Not read to him.

5. From whom did you receive the Letter ſign'd *Diſcomb* found among your Papers, and who are meant by the Fictitious Names mention'd in that Letter?

Not read to him.

6. From whom did you receive the Letter ſign'd *Gerrard* found among your Papers, and who are meant by the Names in the ſaid Letter?

Not read to him.

7. From whom did you receive the Fragment of a Letter ſign'd *F. M.* and what is meant by it?

Not read to him.

8. From whom did you receive the Fragment of a Letter mentioning the Names of *Ireton* and *Hore*? Who are meant by thoſe Names?

To the 9th Queſtion, he ſays he knows ſeveral of the Name of *Digby*, but none that were at *Paris* laſt Summer. That with Submiſſion, he belives the Letter now ſhewn him, was not found upon him.

9. From whom did you receive the Letter ſign'd *M. Digby* found in your Pocker, who are meant by the Names in that Letter?

Not read.

10. Did you ever ſign Letters, or were you ever directed to, or denoted by the Names of *Kite*, *Kirton*, *Killigrew*, *Hubberts*, *Sandford*, *St. George*, *D. St. John*, *D. Compton*, or *Ormſby*?

Not read.

11. Were you ever made privy to the remitting any Bills of Exchange from *London* to *Calais*, and thence to *Paris*, about *April* laſt? By whom were the ſaid Bills drawn, on whom, for what Sums, by whoſe Direction, and for what Uſe?

Not read.

12. Were you, before your intended Voyage for *France*, charged with any Letters, Cyphers, or other Papers relating to the Conſpiracy, for whom, and from whom?

Not read.

13. Are you willing to explain to the Committee the Paſſages in the Letters, which they have good Reaſon to believe were writ or receiv'd by you, as far as the ſaid Particulars have come to your Knowledge?

PAPERS

RELATING TO

JOHN SAMPLE.

Liſt of Papers relating to John Sample.

1. Minutes of an Examination of *John Sample*, taken before ſeveral Lords of the Council, 1722, *Aug.* 4. Page 3

2. Certificate of Sir *Robert Sutton* and others. *Aug.* 4. p. 4

2. a. To which are annexed two Letters, one from *Fr. Sempill* to Mr. *Sample*, dated at *Paris*, 13 *June* 1722, N. S. ibid.

2 b. And another from *Fr. S.* to him, dated at *Paris* 1ſt *July* 1722. There are three other Letters not material. ibid.

3. Paper found in *Sample*'s Room after he made his Eſcape. *Aug.* 5. p. 5

4. Letter from *Sempill* to his Mother, 1721, *Aug.* 9. p. 6

5. Copy of an Anonymous Letter taken at the *Poſt-Office*, from ----- to Mr. *Sempill*. 1722, *July* 10. ibid.

6. Copy of an Anonymous Letter taken at the *Poſt-Office*, to ---- incloſed in that to Mr. *Sempill* of the 10th. p. 7

7. Copy of an Anonymous Letter taken at the *Poſt-Office* to Mr. *Sempill*, Aug. 16. p. 8

8. Copy of a Letter to Mr. *Sempill* at *Paris*. Aug. 30. ibid.

9. Letter to Mr. *Eaſſy*, incloſed in the foregoing. p. 9

EXAMINATION *of* John Sample, *Servant to the Right Honourable Sir* Robert Sutton, *taken the 4th Day of* Auguſt, 1722.

PRESENT,

Lord Viſcount Townſhend, *Mr. Chancellor of the* Exchequer,
Lord Carteret, *Sir* Robert Sutton.

THIS Examinant ſaith, that *Francis Sempill*, Son of the Lord *Sempill*, at *Paris* (commonly ſo called) was ſome time ſince in *England*; and during his being in *England*, this Examinant was twice in his Company: That he has been returned above three Weeks into *France*: That a Letter directed to this Examinant, dated at *Paris*, *June* 13th, *N. S.* 1722, found in this Examinant's Trunk, and ſigned *Fr. Sempill*, was wrote by the ſaid *Francis Sempill* to this Examinant, before he came from *France*. Being asked who was meant by Mr. *Hews*, mentioned in the ſaid Letter; He ſaith, *the King*; and that by Mr. *Hews*'s *Diſtemper*, was meant the *Diſturbances*; That by *Mr. Standwell* was meant the Pretender: That by *Houlder* was meant *the late Duke of Ormond*: That *Mr. Crawford* was the Perſon that *ſeveral Attempts had been made to gain*: That by *Mr. Hill* was meant Sir *Robert Sutton*; and by *Woodbe*'s *Father*, *the Duke of Kingſton*: That a Letter of the ſame Hand-writing, dated from *Paris*, 1ſt *July* 1722, ſigned, *Fr. S.*---- which was likewiſe found in this Examinant's Trunk, and is directed to this Examinant (with the following Words [*the Alleppo Greay and the large Baye with two others*] wrote on the Backſide, which this Examinant confeſſes to be his Hand-writing) was wrote by the ſaid *Francis Sempill* to this Examinant: That Mr. *Lalleman* mentioned in this Letter is *Mr. Kenedy*, Secretary to the late Duke of *Ormond*; and *Mr. Le Brun* means *Mr. Butler*, formerly Gentleman of the Horſe to the ſaid late Duke of *Ormond*, and who at preſent lives with the Duke *D'Aumont*: That by *Thompſon* is meant *the Miniſtry*; by *Bernard*, *the Parliament*; by *Smoothways*, the *Lord Carleton*; by *Stafford*, the *Duke of Argyle*; and by *Walker*, the *Lord Iſlay*. A Copy being ſhewn him of a Letter dated the 30th *July*, 1722, directed to *Monſieur Sempill at Paris*, this Examinant owns that he did write a Letter to the effect of what is contained in the ſaid Copy, and ſays that by this Expreſſion *The Party concerned is not to be taken by Reaſons*, &c. he means that the Jacobites will not venture without a Deſign well concerted abroad; that by what is ſaid of *You* and *your Couſin*, he means a Quarrel between the ſaid *Francis Sempill* and the *Lord Tullibardine*; by *Lawyers*, the *Jacobite Party*; by *our Family*, the *Jacobites*; by the *Diviſion*, the *Diviſion among the Miniſters*. A Copy of another Letter being ſhewn to this Examinant, without Date, directed to *Monſieur Laſſy at Paris*, he owns he wrote a Letter of the ſame Contents, and ſays that by *Mr. Glaſcow*'s *Maſter and Laſſy*, he means Mr. *Sempill*: Being asked by whoſe Direction he wrote that Letter, he ſays that he framed and wrote it himſelf, without communicating it to any Perſon whatſoever. Another Copy being read to him of a Letter dated *July* 10th, directed to Mr. *Sempill*, he owns that he wrote a Letter of the ſame Purport. Another Copy being read to him of a Letter of the ſame Date, which was incloſſed in the laſt mentioned Letter, he owns he did write a Letter to the ſame effect, and ſays that it was to the late Duke of *Ormond*. The Examinant farther ſays that he prevaricated in what he ſaid above, that by *Smoothways* he meant the *Lord Preſident*, but ſays that by this Cant Name is meant one *Mackenzie* a *Scotſman*.

WE certify that the above-written contains in Subſtance, the Examination of *John Sample* taken before us the 4th Day of *Auguſt*, 1722; the ſame being collected from Minutes then taken in Writing by us the Lord *Carteret*, and the Chancellor of *Exchequer*, and is the true Senſe and Meaning of what the ſaid *John Sample* declared upon his ſaid Examination.

Townſhend,
Carteret,
R. Walpole,
Rob. Sutton.

Cer-

Certificate relating to Papers taken out of Sample's *Trunk.*

WE whoſe Names are ſubſcribed, do atteſt that the Five Letters hereunto annexed, tacked together and ſealed upon the Threads, were in our Preſence taken out of the Trunk of *John Sample* by Sir *Robert Sutton*. Witneſs our Hands the 4th Day of *Auguſt*, 1722.

Robert Sutton.
Robert Eaſtland.
Tim. Caſey.
F. Bourgoin.
John Bowie.

G. 2.----a.

A Letter from Fr. Sempill *to Mr.* Sample *at* Clair's Coffee-Houſe *in* Conduit-Street *near* Hanover *Square.*

Dear Sir, *Paris*, 13th *June*, N. S. 1722.

I Have little to ſay by this Poſt, ſave to let you know that my Father has received yours of the 21ſt *May*. We are daily confirmed in the Opinion that Mr. *Hews*'s Diſtemper is but imaginary or counterfeit, and that as it has already leſſen'd the Reputation of his Phyſicians, ſo it will in the end ruin his Conſtitution, and their Fortunes; however it has probably ſurpriſed Mr. *Standwell* at firſt, and will certainly put a ſtop to his Proceedings till he is appriſed of the Truth or Deceit of that Matter; but this cannot diſconcert his Meaſures, not even delay any thing above a few Weeks, wherefore we hope the Match will ſtill go on. We have not yet heard from Mr. *Houlder*. I find ſome of Mr. *Hews*'s officious Friends are very anxious to know where he is, and pretend to know that he is here or near this Place; perhaps he may produce himſelf to their Coſt. But it is not yet full time to give you hopes of that kind; in a little time I doubt not but we ſhall be able to give you ſuch Accounts as will be agreeable. My Father is moſt kindly remember'd to you, and deſires you'll continue to write often. Several Attempts have been made to gain the Gentleman you mention'd in your laſt, but none can ſucceed while his Brother lives. The great Intimacy you remark between Mr. *Hill* and *Woodbe*'s Father is remarkable; is it impoſſible to penetrate into the Origine of it by ſomething more authentick than our Conjectures? O that you could do *Standwell* that Piece of Service! All the Family deſires to be remember'd to you. I beg you'll believe me in a particular manner,

Dear Sir,
Your moſt Affectionate and Obedient
Humble Servant,
Fr. Sempill.

Pray let us know the Diſcoveries you have made concerning the Plot, we know not in this Country what to think of it. Adieu.

G. 2.---b.

A Letter from Fr. S. *to Mr.* Sample *at* Clair's Coffee-Houſe *in* Conduit-Street *near* Hanover-Square.

Paris, 1 *July*, 1722.

SInce my Father's laſt to you, Dear Sir, he has received yours of the 31ſt of *May*, and on *Monday* laſt thoſe you addreſs to Mr. *l'Alleman* and Mr. *le Brun*, both which were forwarded the ſame Night; I doubt not but there is ſomething material, of which you have adviſ'd theſe Gentlemen, and am ſorry that you ſaid nothing to us, but we ſhall expect that Satisfaction at greater leiſure. What you mention of the Diviſion among *Hews*'s Truſtees in your Letter of 31 *May* begins to be publick here, and we are told by ſome that *Thompſon* fears the Encounter of Mr. *Bernard*, and therefore

ſome delays his Interview with him as long as he can. I doubt not but the many private Conferences between *Hill*, *Smoothways* and others, tend to *Thompſon*'s Overthrow, and I fear they will ſucceed; for if they rule the Buſineſs of the Family, I'm perſuaded they will do it to better purpoſe, and ſo daſh our Hopes, that we ſhould have a far more deſperate Game to play than in the preſent Situation; wherefore pray inform me as punctually as poſſible of the Advances they make and the Opinion you have of their Succeſs. I beg you'll alſo ſend me in your next the Names of thoſe whoſe Characters you ſay you could not make us underſtand in your laſt, that my Father may let *Standwell* know the danger of a Change in the Managers; for I think 'tis plain, that if *Stafford* be preferr'd as well as *Walker*, his Affections and his Views will be very different from what they are at this time: To prevent that fatal Blow, any thing tho' never ſo deſperate ſhould be done, and I am perſuaded both Mr. *Standwell* and Mr. *Houlder* think ſo. The latter has not as yet writ to my Father, which we admire of; my Father has again written to him on *Monday* laſt. This is the Subſtance of all my Father or I have to acquaint you with at preſent. *Woodbe* is going to *Normandy*, and is to diſperſe his Family, but he has ſecur'd great Lodgings for Winter, at which time I ſuppoſe we ſhall ſee him again. Sir *Luke Schaub* now acts openly as *Britiſh* Envoy; he is indeed a very active Man, but not ſo dangerous to the Pretender's Friends as another might be; it was matter of Jeſt to ſee ſome of his Emiſſaries going about a few Weeks ago, enquiring for the late Duke of *Ormond* and Earl Marſhall. My Father begs you'll excuſe his Silence at this time, he has been oblig'd to employ my Hand to aſſure you that he is with all his Family, as I beg you'll believe me,

Dear Sir,

Entirely yours,

Fr. S.

G. 3.

A Paper found in John Sample's *Room after his making his Eſcape.*

My Lord,

AS my ill Conduct has deſervedly brought me under His Majeſty's Diſpleaſure--- I hope your Lordſhip's Goodneſs will not upbraid me by throwing my ſelf at his Mercy, hoping his wonted Goodneſs will not reward me according to the heinous Actions I have been guilty of to his Royal Perſon and Government. Next I am to ask Pardon of my Maſter, whom I have injured in an extraordinary manner. The Contrition and Anxiety I ſuſtain a ſufficient Mortification to me here. — I am — Your Lordſhip's great Goodneſs will imagine how I have been buoy'd up with the Flatteries of thoſe who caus'd me to act againſt the beſt of Kings, and of Maſters alſo——— The firſt Origin of this fatal Dilemma was commenc'd about twelve Months ſince, betwixt me and Mr. *Kennedy* the late Duke of *Ormond*'s Secretary——The firſt Letter he wrote to me was only upon Compliment, and to teſtify how glad he was to hear of my Welfare——— The ſecond was about a Month afterwards, and the Purpoſe of it was, to know the Sentiments of the People concerning Lord *Mar*, and the Subject of the reſt much upon the ſame Purpoſe, and a Jealouſy concerning the aforeſaid Lord——I anſwered his Letters every one, and two I writ to his Maſter, but I had no Anſwer to either of them, only Mr. *Kennedy* told me this was well. The laſt but one, which I ſuppoſe your Lordſhip has in your Hands, and worded to this Effect, that it was the Opinion of his Friends, which I took the Liberty to ſay—— that he ſhould make an Intereſt with thoſe who would do him Service in a Parliamentary way, by obtaining an Act of Grace in his Favour, which I did not doubt but he might obtain; and to ſhow how ready I would be in doing him Service this way, in caſe he thought me worthy, I would attempt to ſpeak to Mr. *Hill* on that head.

Memorandum, *That upon opening the Room where* John Sample *has been confined, the firſt Time after he had made his Eſcape, this Paper was found on his Table.*

Mary ł *Molloy*
her Mark.
Edward Davies.
A. Dagley.

Aug. 5, 1722.

A Letter from——Sempill *to his Mother.*

Honoured Mother, *Aug. the 9th,* 1721.

I Have according to your Deſire ſent you three Necklaces, but as for a Fan I muſt hear from you again before I buy it, by reaſon that there is no Paper Fans here but what come from *England*, but here is Fans all made of Ivory which is painted very rich and fine, but the Price is about thirty Shillings a-piece, pray let me know whether you will have one of thoſe or not, if you will, I ſhall ſend you one by the firſt Meſſenger that comes. Pray give my Service to *Marrey Cooley*, and tell her that I expect to receive ſome Money in five or ſix Days, and then I ſhall acquit my ſelf with Honour and Gratitude. I ſhall, dear Mother, prove in a ſhort Time, that I did not give my ſelf an Air concerning what I promiſed you, for one of his Excellency's Servants is a coming over, who promiſes to bring any thing I have to you. This Day I receiv'd a Letter from *Charles Croſs*, and one incloſed from Mr. *K.* which gives an Account of poor Mr. *Virgin*'s Death of three Days Illneſs. It was but the laſt Poſt that I had a Letter from him. I am very ſorry he's dead for many Reaſons. My Lord—— *D*—— does me much Honour———I wiſh my Father knew of any Employ that my Lord *Arron* could give, which I believe there is ſuch things happen in his Power. I deſire he would enquire, and make no Scruple or Light of this Matter, leſt you may repent it. Pray give my humble Duty to him. I ſhall not expreſs my ſelf at this time, but I deſire you will write as

---

G. 5.

An Anonymous Letter to Mr. Sempill.

A Monſieur de Sempill chés Monſieur L'Abbe Duchene au bout de la Rue perdue Place Maubert à Paris.

July 10, 1722.

BEING diſappointed of the Opportunity I deſign'd to forward the incloſed to Mr. *Standwell*, I think proper to let you have the Contents, that you may either give it to him or what you ſhall conceive moſt proper---But if you think well of the former I ſhould be glad——If the Stocks riſe I hope he will have an Opportunity to make ſome Advantages therein, for a Delay will at this Time be very dangerous, not only to him but to others; pray aſſure him I am ready to ſerve his Pleaſure, and I hope to be employ'd by him——It's given out that his Credit is ſo ſunk that his Bill will not paſs for 5000*l.* but I hope he will confute the World they are in an Error——I am indeed ſurprized at *Houlder*'s Silence, which muſt either proceed from a Diſguſt, or he has no regard for me; I expect your Opinion on it. It's thought here he will be with you very ſoon, if ſo, I need not repeat—— what I deſired of you before: my moſt humble Duty to all your Family, your Lady in particular.

I was this Morning three Hours with Mr. *Smoothways* and another very worthy Lawyer, whoſe honeſt way of thinking has given me the greateſt Content——Being as I am ſure they are hearty, and their Notions is grounded well——— they ſhow me the moſt Reſpect imaginable———they look upon the Perſon that lodges with Mr. *Eaſſy*, and he which I told you of ſome Time ago———who pay'd us a ſhort Viſit here, and ſo went back, to be two dangerous Perſons in giving me———

Let your next be material in every Point, being as I will give *Smoothways* your Opinion, and direct it to the Coffee———with *La Brun*'s Inſcription *La*———*S*———

If you find the leaſt Riſe I deſire you will ſell out mine, and perſwade *Standwell* and all his Friends to return as much as poſſible here, 5000 would be enough to make his Fortune.

An

An Anonymous Letter, incloſed in the foregoing to Mr. Sempill chez, Monſieur l' Abbé Duchene au bout de la Rue perdue Place Maubert à Paris.

Moſt Honoured Sir,

THE great Freedom I take, I flatter my ſelf will be thought by you the Mark of a ſincere Mind who would be ambitious to be anywiſe ſerviceable in promoting your Intereſt.

The many croſs Chances which happens give not only me but others the greateſt Pain, but as you have been experienced in Diſappointments, we hope it will not effect you. The Weakneſs of your proteſting Friends here, and the Vigilance of your Enemies, give thoſe who has nothing but honeſt Views the moſt Concern, they not knowing who to confide any Truſt in, or how to act, which Jealouſy is thought may end in an ill Conveniency if not timely mediated, and as it is matter of the greateſt Conſequence, I hope your great Wiſdom will give your Inſtructions upon it. As this is an unhappy Evil to you, yet it in a great meaſure affects your Adverſary, who has not yet healed thoſe Diviſions amongſt his Friends, which moſt ſurely is the deepeſt Mortification to him. However it is preſumed no Step will be taken for his Relief while the meeting of the Parliament, and in order to make a Reconciliation, and preſerve the Majority--- it is thought there will be Removes, and Power will be given to the moſt powerful of each ſide---- the Court knowing well the Head on't taken off will benumb and deaden the reſt of the Body--- but a ſhort time will determine the whole and bring to light the *Spring* and Myſtery of thoſe Proceedings. I hope you will not be uneaſy nor ſurpriſed at the Baſeneſs of Mankind; yet nothing could be of greater Service to you than a witty and truſty Lawyer to ſound the Deſigns of thoſe Pretenders, for the World is infatuated in Villany, and I muſt look upon it as a Hardſhip that your Intereſt is to countenance a Man as honeſt, becauſe he tells dyou ſo himſelf; a Note from his Hand would be a Satisfaction to you and a Tye upon him, and I am aſſured there's none but thoſe who would be any thing that would refuſe it--- was they aſſured Yourſelf would keep it in Poſſeſſion; your Bankers here will not do the leaſt without Draws from abroad, which I hope God will effect to maintain your Credit here; and I hope your Circumſtances will not keep them long in Suſpence; your effecting this would be the moſt eſſential Step; being as nothing can be done unleſs that is obtained; ſo cowardly is the Hearts of---------- but they all pretend to the Reverſe, would you but tranſmit 5000 *l.* and a Bill of as much more + I hope the great God above will interfere and able you in this, for long delay will harbour many ill conveniencies, and the Stratagems of your Enemies is laid ſo cloſe, that if your Attorneys is not Gold Proof they will be cloſely attack'd in order to diminiſh your growing Intereſt, ſo that on thoſe Accounts there is many that lives that would not know how to do it did not they baſely betray and make a Property of thoſe to whom they ought to behave in an other manner. I am afraid you want thoſe who has Honour and Art enough to counterplatt Villains, for at this Time nothing would be of ſo much Service as truſty Friends, both to manage here and -------- the Steps lately taken by the *Spaniſh* Captain *Cambray* gives us both matter of Surprize and Pain, but as an Agreement is like to happen we imagine the Source of it ſprings from thence.

As I am obliged to ſend this in a rough Stile, not having the leaſt Opportunity for a Correction, I hope the Defects will be pardoned by your gracious Goodneſs. The Propoſal I made in my laſt concerning the Perſon I am with I will undertake to effect ---- if you do not think me unworthy of ſo great an Honour. There is not the leaſt Diſcourſe of the Conſpiracy that made ſuch a Noiſe ſome Weeks ago, makes People even Courtiers.

An

G. 7.

An Anonymous Letter to Monſieur Sempill.

A Monſieur de Sempill chés Monſieur L' Abbe Duchene au bout de la Rue perdue quartier Place Maubert à Paris.

July 16, 1722.

My Lord,

AS the Poſt is juſt upon departing, I only have time to acquaint you the Duke of *Marlborough* is to be buried in a Month's time, whoſe Funeral they ſay will be very fine --- and as it is in the Night, doubtleſs a vaſt Concourſe of People will be preſent--- I wiſh your Couſin Mr. *Standwell* had Intereſt enough to have made uſe of that favourable Opportunity which in my Mind would have been a great Step to have compleated his Fortune as he is an Upholſterer; pray think of this, and if there is any Intereſt to be made, do it in Time, and if you think proper, acquaint Mr. *Eaſſy* with it, for never a more convenient time offered; the Diviſion betwixt Mr. *Hews* and his Friends ſtill continues, and for what I can find Mr. *Hill* is at the bottom of the Conteſt ---- I pray God as I have reaſon to believe it will turn to Mr. *Lalleman*'s Intereſt, for I am aſſured the Diſpute is real---- Pray think of this, and do not fail to ſpeak to *Houlder* and *Standwell*. I am yet ſurprized at the Silence of the former ---- This Day to my great Aſtoniſhment, my Maſter told me that Mr. *Crauford* had deſired of him to let me come and live with him ---- I made a Reply ſuitable to ſuch a Demand, yet I cannot perceive the Bottom of it, having Reaſons to be aſſured he never had the beſt Wiſhes for me---- but I ſhall find out the Source of it, I hope, by my next.

I am, Honoured Sir,
with all Duty and Reſpect,
Yours to command.

My humble Service to your Lady's, Mr. *Semple*, and your Honourable Family.

G. 8.

A Letter from ..... to Mr. Sempill *at* Paris.

July 30, 1722.

I Received the Honour of yours dated *July* the 28th, the Contents of which I take not only to be reaſonable but juſt. But as the Party concerned is not to be taken with Raiſon, I am convinced it will have no affect, for they have not only ſeet their mind upon a Draught, but they are reſolved to hazard not a Pinn without it. † I am ſure no one in my Sircumſtances has been more vigallant to bring this to baire than my ſelfe, but I find it an endleſs Labour, wherefore an Expedient muſt be thought on without ſtanding upon Ceremoneys or putting two greate a ſtreſs one Maybees † nothing is or can be more obnoxious to your Affaire than a delay, which makes me hope you and your Couzens will be reconciled and firmly ſtand by one another— † for its moſt ſhure your Adverſarry will when onſt weatherred this Storme take care to ſecure his Habitacionn againſt any attempt of your Lawjours who will doubtleſs be ſo worne out and diſcomfitted at their diſappointments that there Spirret will be ſo deadned they will not be able to reſiſt there Antagoniſts. Wherefore a ſpeedy Reſolution is abſolutely naccaſſary— ſo for God Sake thinke how diſtreſs'd our Families will be in caſe they looſe the Cauſes which muſt be decided by next Terme— Sence my laſt to you I have diſcover'd more of *Hill*'s Sentements than all the time I knew him before. I looking upon his Conduct to be as artful and as ſubtill as any who would dow Mr. *Hews* Service and yet endavore to make the World belive the contrary: But I ſhall while I ame acquainted with him Trace his Proceedings ſo cloſe that it ſhall gow Hard if I dow not ferrit him. The Deviſon that has been *Blaiz'd* a Bout ſo much I am perſuaded will not anſwer in the leaſt your purpoſe, for I obſerve the princable concerned Take about ſo that you have no ſtreſs that way, the Dread Poore Mrs. *Hews* is under even of hur owne ſhaddow gives People Roome to thinke har Conſteytucion is not ſo firme as ſhe would have us Believe—But as thoſe Nocions is in one Sence Immaginary you muſt Endavore to perſhew other vews--notwithſtanding— you cannot

not conceve what a Concerne my Couſen *Houlder*'s Silliance Creats in me ſo that humbly bagg you will give me your Raile Opinion concerning it. † I ame much obliged to you for your frequent Recommendations to *Standu* whoſe Intriſt I have ſo much at Harte that you may aſhure him— I ſhall watch all opertunity to ſhew it— your laſt to me was derected well and came ſafe to hand.

I have no News to informe you with But on the 28th inſtant one Mr. *Kelly* a Reputed Jacobite and a Relation of Lord *Strofford*'s was arreſted by His Majeſty's Meſſengars he having obtained a Paſporte ſome days before in order for *Paris*—But as he was for ſome time ſuſpected it's preſum'd the Government had Informacion he was upon ſome deſine, for not only himſelf but his Lady and his Ladeys Mother the Old Ladey *Bellow* and the Servants and ſeveral that came to wiſh him a good Jurney was all taken into Cuſtody and yet coutinews—the Captain that had his Bagag aboard in the River was likewiſe taken, and the ſaid *Kelley*'s Trunks ſent to the Secretary's Office under a ſtrong Guarde— Its not known what diſcoverys has been made. But its thought all will end in nothing but a ſuſpicion only. You will find a Letter at the Coffee Houſe addreſs'd to Mr. *Glaſcow*'s Maſter, which I deſire you will open and give your opinion wheather you thinke proper to give it him its Mr. *Ea—y* my humble Duty to all your Family.

The foregoing is the Copy of a Letter directed thus à Monſieur Monſieur Sempille chés Monſieur l'Abbé Duchene au bout de la Rue perdue au quarter Place Maubers à Praris. *In the ſaid Letter was a Paper, the Copy of which follows.*

MR. *Kelly* was the 28th Inſtant taken into Cuſtody by 6 Meſſengars who has him in hould yet, as his Ladey and his Ladeys Mother alſo and all his Servants, that very Morning they was cair'd they was deſind for *France* having obtained a Paſporte from the Secretary of State the very Night before—The Maſter of the Veſal who was to have taken them over was likewiſe arreſted and all the Trunkes and Boxes which belong'd to the Priſnors brought to be— examin'd by the Secretary of State.

But there has been nothing found, which has not a little contribut'd to the Morteyficaccioun of the Miniſtry whoſe aime was to intrape Lord *St—de* thinking he might be concerned with him.

G. 9.

A Letter to Mr. Eaſſy *at* Paris, *not ſigned nor dated, but appears to have been writ,* Monday 30 July, 1722.

A Monſieur Monſieur Eaſſy au Caffé Gregoire vis a vis la Comide dans la Rue de Comide Fabour St. Germain a Paris.

Honoured Sir,

THE following Project is a thing of ſo waitey a Concern, that I hope whoever ſhall be looked upon worthy to be appriſed with it, will conſider the Nature and Conſequence of the matter, and imagine that Sincerity, Reſolution and an unchangeable Mind muſt be the only Support of the whole --- for without Reſolution and Courage no Man muſt pretend to engage in ſo great and ſo daring an Enterprize; therefore you will believe the Heads of it is not to be made known to any but thoſe whoſe Virtues, Characters and Valour has been experienc'd on other Occaſions.

As the Night of Opportunity is not as yet fixed, it is the Buſineſs of our Friends to engage and ſtrengthen themſelves not only by ſecuring proper Perſons, but ſmall Arms, Ammunition, *&c.* when this once done the proper Hour is to be reſolved upon --- then they muſt diſtribute themſelves in ſeveral Bands where they ſhall think moſt convenient--- But this is the laſt Point to be adjuſted --- tho' where the firſt Onſett begins it's agreeable that not only Perſons of Figure but thoſe of Conduct and Experience ſhould appear, whoſe Pretext for a Quarrel muſt be to degrade the Ceremony, which will doubtleſs occaſion thoſe that attend the Cavalcade to reſent it --- who will not imagine in the leaſt a Reſiſtance of Arms which will doubtleſs have a very Pannick Effect on their Spirits--- and oblige them to diſperſe— and thoſe well affected to revolt --- and as it is in the Night, Friends may ſecure the Appartments in the ſeveral Streets under Pretence of being Spectators, and ſo from the Windows and Tops of Houſes be of greater Service than thoſe below, by throwing Stones and other unnoffenſive matters down.

There muſt not a Word of the K. be mentioned for ſome Days, only a General Cry againſt the *South* Sea Directors and thoſe Miniſters who is leſs reſpected by the People--- and alſo for to have Juſtice done an injur'd Nation, which Voice will have a great Effect on the Country who will moſt aſſuredly eſpouſe our Cauſe, did but that Pretext go forward ---- and it would be a very eſſential Step if any of the Directors could be ſeized and executed in the Fray, and their Houſes pull'd down and the Moveables deſtroyed---- This would be matter to increaſe our Number, and diſperſe the ſame Spirit over the Nation--- tho' it is moſt ſure our Friends, tho' under another Colour, would diſtinguiſh the Source of the Deſign, and would on the firſt Succeſs be aiding as much as in them lay ---- As for the Tower, the only method in ſecuring that, is to fire ſome Houſes in the adjacent Places near it, which would oblige the Governor to obey his Orders, and open the Gates to ſend Aſſiſtance, which would be a Pretext for 100 Men to effect that Point, being on ſuch a Confuſion it may happen 15 Men may not be on the main Guard, at the moſt not 40.---- Beſides thoſe may be made ſo drunk the Afternoon before, that not only the Men but the Officers may be made uncapable of doing great Service.

The next and chief Point which is to be obtained, is to ſecure the Power, and thoſe at the Head of Power, which is to be beſt obtained after this manner, *viz.* When we have begun with the Directors the way muſt be ſteered to the *Germans*, who the World imagines to have ſhared with them—and as the People is thoroughly exaſperated againſt them, it is to be doubtleſs preſumed that many would engage upon this very pretext.

When this once obtained the other Views would fall in Courſe—— which would then be time to unmask——and think of no other but Succeſs.

If this, as I am afraid it will, come too late to your Hands, I hope other opportunities will offer of the like Nature.

POSTSCRIPT.

It is aſſured the Day is put off for 3 Weeks.

H.

PAPERS

RELATING TO THE

Duke of *NORFOLK*,

AND OTHERS.

A

LIST of Papers relating to the Duke of Norfolk.

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	Extracts of anonymous Letters taken at the Poſt-Office		
8	From —— to Mrs. *Burton*,	*May* 30. *June* 10. N. S.	ibid.
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15	to Mr. *Hooker*,	19	ibid.
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19	Copy of an anonymous Letter taken at the Poſt-Office, to Mrs. *Williams*,	*July* 23. *Aug.* 3, N. S.	p. 10
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24	to Mr. *Burton*,	12 *Aug.* 23	p. 12
25	to Mrs. *Burton*,	25 *Sept.* 5	ibid.
26	to Madam *Lucy*,	4 *Sept.*	ibid.
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28	to Madam *Lucy*,	18	p. 13
29	to Mr. *Burton*,	20 *Oct.* 1	ibid.
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33	to Mr. *Burton*,	21 *Nov.* 1	ibid.
34	Copy of a Key and Cypher incloſed to Mr. *Burton*.		15
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37	Copy of another Key directed to ditto.		20

The DEPOSITION of Charles Pickering, *one of the Letter-Carriers belonging to the* General Poſt-Office, London.

WHO ſays, it is his particular Buſineſs to deliver Letters which come by the foreign Mails, and are directed to Perſons dwelling in and about *St. James's, Weſtminſter.* That he has ſeveral times deliver'd ſuch foreign Letters, directed to Mr. *Burton* at Mr. *Knight's* in *St. James's-ſtreet*, to Mrs. *Burton* at the ſaid *Knight's*; and of late to Mr. and ſometimes Mrs. *Burton*, at Mrs. *Whitton's* in *Great Rider's-ſtreet, St. James's.* That he ſometimes deliver'd ſuch Letters to the Gentlewoman who has juſt now been ſhewn to him at Mr. *Spear's* the Meſſenger, where ſhe is in Cuſtody (and whoſe Name he is now inform'd is *Spilman*) and from her own Hands receiv'd the Money due for the Poſtage thereof. At other times he has deliver'd ſuch Letters to the Maid Servant, who has juſt now been ſhewn to him at the ſaid *Spear's*, being alſo in Cuſtody there. And at other times he has deliver'd ſuch Letters to a Servant Maid at the ſaid *Knight's* Houſe. The Deponent further ſays, that yeſterday he carried two ſuch foreign Letters, both directed to Mr. *Burton*, at Mrs. *Whitton's* aforeſaid, and there deliver'd them to the ſaid Maid now in Cuſtody at Mr. *Spear's*, and ſaw her carry them into an inner Room, and deliver them to Mrs. *Spilman*, the Gentlewoman now alſo in Cuſtody at the ſaid *Spear's*; and preſently the Maid before mention'd return'd to the Deponent, and paid him the Poſtage of the two Letters laſt mention'd.

Jurat 18° die Octobris 1722. *Cha. Pickering.*
Coram me
Cha. Delafaye.

H. 2.

The *Examination of* Margaret Convers, *Servant to* Mrs. Whitton *in* Great Rider's-ſtreet *in the Pariſh of* St. James's, Weſtminſter.

WHO ſays, that Mrs. *Spilman, alias Yallop*, is a Lodger at her ſaid Miſtreſs's Houſe, and has lodg'd there ſome time: That when the ſaid Mrs. *Spilman* firſt came to that Houſe, Directions were given to the Servants, that if any Letters came directed for Mr. *Burton* at the ſaid Houſe, they ſhould be taken in and carried to Mrs. *Spilman*: That accordingly ſeveral ſuch Letters came, which by the Poſtage appear'd to come from foreign Parts; and the ſaid Letters were taken in ſometimes by the Examinant, and ſometimes by her Fellow-Servant, and were carry'd to the ſaid Mrs. *Spelman*, who paid the Poſtage: That particularly, the Day before yeſterday, two Letters thus directed were brought to the ſaid Houſe, and given to the Examinant, who deliver'd them to Mrs. *Spelman*: That the Examinant did believe the Letters were for ſome body elſe, and were left with Mrs. *Spelman* to be convey'd to ſuch other Perſon.

Capt. & Jurat. 19° die Octobris 1722. Coram
Townſhend.
Margaret Convers.

The

H. 3.

The Examination of Mrs. Elianor Spelman.

WHO ſays, that ſhe has received ſeveral Letters directed to her by the Name of Mr. *Burton*; that ſometimes there were Letters incloſed directed to Mrs. *Jones*, which Letters were for the Duke of *Norfolk*.

E. Spelman.

Capt. 19° die Octobris 1722. Coram
Townſhend.

Et jurat. die & anno ſupradict. Coram
Townſhend.

H. 4.

The ſecond Examination *of Mrs.* Elianor Spelman, *alias* Yallop, *the Wife of* Charles Yallop, *Eſq; taken upon Oath the 19th Day of* October, 1722.

WHO ſays, that Mr. *George Jerningham*, before he went to *France*, which was about ſix Months ago, left Directions with her to ſend to the Duke of *Norfolk* ſuch Letters as ſhe ſhould receive from him (*Jerningham*) directed to Mrs. *Jones*; to Mr. *Harvey of Combe*, ſuch Letters as ſhe ſhould receive from him the ſaid *Jerningham*, directed to Mrs. *Williams* in *Newgate-ſtreet*, *Norwich*; and to Mr. *William Moor*, who lives or did live in *Brownlow-ſtreet*, all thoſe ſhe ſhould receive from the ſaid *Jerningham*, addreſs'd to Mrs. *Frampton*: That theſe Letters were to come under Cover to the Examinant, to whom it was agreed between them that *Jerningham* ſhould direct by the Name of *Burton*, when he did not do it by her own Name. The Examinant ſays ſhe did accordingly ſend (as had been agreed between them) the Letters that came to her with the Directions above-mentioned; that ſhe ſent them by common Porters, having firſt incloſed them under new Covers, which ſhe directed, and the Porters always brought her back an Account of their having delivered them, or that the Perſons were not at Home; particularly one to the Duke of *Norfolk*, which the Porter brought back again, he being out of Town, which Letter ſhe kept till his Grace came to Town, and then ſent it to him: And the other Letters which at any Time were brought back to her, when the Porters who carried them did not find the Perſons at Home, for whom they were ſent, ſhe conveyed them at other Opportunities: That one of the Porters ſhe uſed to ſend on theſe Errands is named *William Wood*, and plies about *Rider-ſtreet*, and St. *James's-ſtreet*; the Names of the others ſhe does not remember. The Examinant ſays, ſhe did once receive a Meſſage from the Duke of *Norfolk* by Mr. *Edward Jerningham*, that his Grace could not anſwer one ſhe had conveyed to him from Mr. *Jerningham* firſt above-mentioned, becauſe he had not the Key of the Cypher, it being in his Brother's Hands. The Examinant being ſhewn a Letter with one that had been incloſed in it, ſays the firſt mentioned Letter is her own Hand-Writing, as ſhe believes; and that incloſed, the Hand-Writing of Mr. *Harvey* of *Combe*, being an Anſwer to one ſhe had conveyed to him in the Manner before deſcribed, which came from Mr. *Jerningham*. The Examinant being aſked whether ſhe had received any Cyphers, or Keys of Cyphers, ſhe anſwers in the Affirmative: Being aſked from whom, ſhe ſays from Mr. *Jerningham*: Being ſhewn the Copies of certain Cyphers, or Keys of Cyphers, which had been thus ſent to her, and being aſked to what Uſe the ſame had been ſo ſent, ſhe anſwers, that ſhe apprehended that they were ſent to her only to lay them by: Being aſked what is become of them, ſhe ſays ſhe burnt them this Day, after ſhe returned Home from the Meſſengers, they having lain hid in her Lodgings behind a Hanging, where the Meſſengers could not find them; that Dr. *Jerningham* and his Wife were preſent when ſhe burnt them, and ſhe did before-hand declare to the Doctor her Intention to burn them, which the Doctor approved: That ſhe did at the ſame Time burn ſome other Papers, which had been left with her, ſealed up, by Mr. *Jerningham* before he went to *France*, which ſhe likewiſe did with the Approbation of Dr. *Jerningham*, and ſhe knows not the Contents of them: Being aſked whether before ſhe burnt the ſaid Cyphers and Papers ſhe and

Dr.

Dr. *Jerningham* had any Diſcourſe concerning her having been examined this Morning at my Lord *Townſhend*'s, and her having ſigned an Examination there, ſhe anſwers in the Affirmative.

Capt. & Jurat. 19° die Octobris 1722. *E. Spelman.*
Coram
Townſhend.

H. 5.

The Examination of Charles Jerningham, Doctor *of Phyſick.*

WHO ſays, he was at Mrs. *Spelman*'s Yeſterday in the Afternoon after ſhe returned home from the Meſſenger's: That ſhe told him ſhe had been examined touching a Correſpondence ſhe had with his Brother *George*; that ſome Papers of hers had been intercepted, and ſhe could not tell whether all had been taken or not: Upon which he adviſed her, if ſhe had any Papers that could bring his Brother or her ſelf into Trouble, that ſhe ſhould burn them. She told the Examinant, it was a Correſpondence that his Brother could not appear in *England* upon: That by thoſe Words he underſtood it to be a Correſpondence againſt the Government. She told the Examinant, that my Lord *Townſhend* had Decypher'd the Letters. Being ask'd whether ſhe ſhewed to him any Cyphers or Keys, he anſwers in the Negative. The Examinant denies that ſhe mentioned to him in particular any Papers his Brother had left with her ſealed up, but ſays he only gave her a general Direction to burn them all. He did not, by what ſhe ſaid, diſtinguiſh whether the Papers were left with, or ſent to her. Being ask'd if ſhe ever mentioned any body to him that was concerned in this Correſpondence beſides his Brother; he anſwers, that he does not remember any particular Perſon's Name, or whether ſhe mentioned the Duke of *Norfolk* or not; only he does remember, ſhe ſaid ſhe was afraid this would bring a great many into Trouble.

Capt. 20mo die Octob. 1722. *Cha. Jernegan.*
Coram
Townſhend.

H. 6.

The Examination of Mrs. Elizabeth Jerningham, *the Wife of* Charles Jerningham *Doctor of Phyſick.*

WHO ſays, that ſhe was in Company with her Husband at Mrs. *Spelman*'s Yeſterday in the Afternoon, after ſhe returned from the Meſſenger's: That Mrs. *Spelman* told her, ſhe was under the Cenſure of having kept a Correſpondence againſt the Government. Being ask'd whether ſhe did ſee any Papers burnt, or was acquainted with the Deſign of burning any Papers at the ſaid Time and Place, ſhe anſwers in the Negative. That ſhe enquired more after the manner of her being uſed at the Meſſenger's, and of her Goods being diſordered by the Searching of the Meſſengers, than after the Occaſion of her Confinement. Being ask'd whether Mrs. *Spelman* named any Perſons that were concerned with her in this Correſpondence, ſhe ſays, ſhe does not remember.

Capt. 20mo die Octob. 1722. *Eliz. Jernegan.*
Coram
Townſhend.

H. 7.

The Examination of Edward Jernegan *of the Pariſh of St.* Giles *in the* Fields, Middleſex, *Merchant, taken upon Oath the 24th Day of* October, 1722.

WHO ſays, that about a Fortnight before the Duke of *Norfolk* went to *Bath*, about *September* laſt, the Examinant being informed that his Grace had enquired for ſome of the Examinant's Family, went to wait upon him; and his Grace told him he had received a Letter from this Examinant's Brother *George*, who was then Abroad, which he could not anſwer; becauſe his Grace's Brother had the Key of the Cypher in which it was written. That the Examinant promiſed to let his ſaid Brother know this one way or other: That the Examinant by the next foreign Poſt Day went to Mrs. *Spelman*, and told her what his Grace had ſaid, believing ſhe might be writing to his ſaid Brother.

Capt. & Jurat. 24mo die Octobris 1722. *Coram* Townſhend.

Edward Jernegan.

H. 8.

Extract of a Letter to Mrs. Burton *from* ——

To Mrs. Burton, *at Mr.* Knight's *Houſe in St.* James's-ſtreet *over-againſt* Park-Place.

The 10th of June 1722.

I Proceed to anſwer the Favour of your Two: You acquaint me in one, that Mrs. *Williams* is never to be found at Home; nevertheleſs I hope you take care to deliver the Letters; ſhe us'd to be exact in Writing; but the laſt you ſent has not yet been anſwer'd.

H. 9.

Extract of a Letter from —— *to Mr.* Hooker.

A Monſieur Hooker, *under Mr.* Pigot's *Cover, at* Calais.

Thurſday, June 12*th*, 1722.

I Have received yours, dated on the 12th, with the incloſed for Mrs. *Jones*, which ſhall be ſent as ſoon as ſhe returns to Town, being abſent only for a few Days. I am ſorry you have ſo few of the many I have ſent from Mrs. *Will:* with my Addition; but how many I can't be exact in; but I believe 5 or 6, ſo I don't wonder you have thought me ſilent.

H. 10.

Extract of an Anonymous Letter to Mr. Hooker.

A Monſieur Hooker, *under Cover to Mr.* Pigault, *at* Calais.

Thurſday, June 14*th*.

THis I ſend you came laſt Poſt. I fear by your laſt, ſome of Mrs. *Will:* Letters never reached you; the laſt I ſent was without any thing from me, and not long before I ſent one, and writ in the Paper.

Ex-

H. 11.

Extract of an Anonymous Letter to Mr. Burton.

To Mr. Burton, *at* Mrs. Whitten's *Houſe, next Door to the* Blue-Bell *in* Great Rider's-ſtreet, St. James's, London.

The 12th July 1722.

I Received, dear M. the Favour of yours of the 14th, with the two incloſed, for which I thank you: I thought it long to hear from you, it being near a Month that I had been without your News. I am vex'd about thoſe Letters which you ſay were ſent from Mrs. *Wills*. I never had 'em, and am ſorry I did not know it ſooner: Pray let me know how many you ſent, for I've received but one from her ſince I left *England*, and that of the 10th of *April*. I ſhall trouble you next Poſt with one to her. I did not imagine you could have been ſo fruitful in Thought as to conclude I had put off my Deſigns of a Return, which I ſtill reſolve ſome time before Winter, if I find it practicable. The Wiſh of a ſpeedy Return in *Harry's* Letter, had relation to Matters of greater Moment than to my own Particular.

If Mrs. *Jones* be in the Country, pray take care how you forward it: Be pleaſed to ſeal it as uſual.

H. 12.

An Anonymous Letter to Mrs. Jones *at* Worceſter, *dated* Cambray, 12*th* July, 1722, *incloſed in one to* Mr. Burton.

To Mrs. Jones, *at her Houſe at* Worceſter, *under Cover to* Mr. Burton, *at* Mrs. Whitten's *Houſe next Door to the* Blue-Bell *in* Great Rider's-ſtreet, St. James's.

SIR, *Cambray, 12th July, 1722.*

VARIOUS Conſiderations which obliged me to ſubmit, deprived me till now the Honour of writing to you; therefore I flatter myſelf, you will incline to favour me with Opinion, that my Zeal and Attention are above falling into any Negligence, where your Solicitude or private Satisfaction *is* concerned. You have been in ſome manner a Witneſs of the late Turn in Affairs, and undoubtedly know ſo much of them, that I fear it will prove ſuperfluous to trouble you with the Particulars, which I have, after ſeveral Meetings with ſome of our Friends at *Paris*. *E. 6.* was of Opinion, that the whole ſhould be communicated to the Regent; which being agreed to, that Lord was deputed to wait on him: They met, and parted in Appearance the beſt Friends in the World, notwithſtanding immediately, by the Regent's Orders, the Secret was diſcovered to King *George*. How is it poſſible to arm ones ſelf with ſufficient Prudence againſt ſuch a Conduct! Theſe being our private Concerns, I leave them to divert you with the Publick News: The Overture of the Congreſs ſeems now in the way to be deferred to the King of *France*'s Majority, who, ſince his Removal to *Verſailles*, is in a manner ſolely in the Hands of the Regent. His Coronation remains ſtill fixed to the 15th of *October*; ſo in all Appearance this Year produces no Diſturbance to the preſent Peace of *Europe*. The Emperor grows daily more powerful in *Italy*, by the Pope's falling into that Intereſt: He has lately ſeized the Fortreſs of *Meſſa* in *Florence*, and promiſes the Inveſtiture thereof, with that of *Parma*, to the Prince of *Baviere*, upon his Marriage with the Princeſs *Joſephina*. *Spain* will be under great Difficulties to find Means to ſupport their Claim to theſe Provinces, eſpecially at a Time that *France* ſeems negligent of every Thing which concerns them. There is no Appearance likewiſe that the Affairs in the North produce any thing material this Seaſon: The pacifick Temper of the King of *Pruſſia* ſecures every Thing on that Side, and has probably prevented the Diſturbance threatned in thoſe Parts. Thus at preſent are the Affairs of *Europe*.

I did not fail to repeat my uſual Solicitations in Favour of your Brother, and to add what in Juſtice I thought you merited. This I did upon the firſt Occaſion after my coming over; to which, from the King, I have this Anſwer *June* the 15th.

No Body has a better Opinion than I have of the Great Perſon you mention, nor does his Character more Juſtice: I ſhall be always deſirous to do what is in my Power

to

to convince him of my Regard for his Brother, who now is in the Country with me; but I fear it will not be Time to move in the Particulars you mention of ſome Years yet, which will be the Caſe of all others who pretend to the ſame Right as I do. Thus far was his. There is a Pleaſure to ſee with what generous Virtue he repays all who conſider his Misfortunes. I preſume to mention one Thing more, being moved to it out of a pure Conſideration to the Credit it will give to your Name. Doctor *Witham* finds himſelf under the Neceſſity of Building, the old Houſe being ready to fall; and next Spring they begin, but upon ſo ſmall a Fund, as will never finiſh the Work as it ought to be; the Conſequence of which muſt neceſſarily oblige them to beg the Aſſiſtance of their Friends. I ſhould be ſorry upon this Occaſion that any other Perſon ſhould diſtinguiſh himſelf ſo, by a Donation, as to merit his Arms to be placed in the Front, where I could wiſh to ſee your own: I have not ſpoke one Word of this to any Perſon in the Houſe, thinking it would look more generous in you, if diſpoſed to take the Credit in laying the firſt Stone, to move and offer it yourſelf. As to other Matters, if I can be ſerviceable in theſe Parts, either in your Particular, or to the Intereſt of the Party, you know me faithfully devoted to both. I have obtained Leave to return by the End of Summer, finding it inconvenient to my private Situation to remain longer Abroad. I hope then to preſent you with freſh Proofs with what Zeal and Reſpect I've the Honour to be,

SIR,

Your moſt obedient
and moſt humble Servant.

Be pleaſed to addreſs to me, *a Monſieur Hooker*, under Cover *a Monſieur Pigault, Banquier a Calais.*

H. 13.

Letter from N. N. *to Mrs.* Williams *in* Newgate-ſtreet, Norwich.

To Mrs. Williams *in* Newgate-ſtreet, Norwich.

SIR, *C. the 19th July*, 1722.

SOME Time being paſt without the Pleaſure of your Letters, I made it my Care to enquire after the Welfare of my Friend, and found from thence that ſome Letters which you have been pleaſed to honour me with miſcarried, and unfortunately never reached my Hands: Such Meaſures are neceſſary to a Government filled with Fears, and we muſt ſubmit to ſuch Loſſes, which involve the Innocent with the Guilty. But believing now thoſe Dangers over, I preſume to renew a Correſpondence, which intereſſes itſelf purely for the Satisfaction of knowing how my Friend does, and what could be the Cauſe of ſuch a Fright which has alarmed thus our State. The Regent is at all Times a faſt Friend, and fails not, like a zealous Ally, to give immediate Notice of the Intelligence he gets, when any Thing concerns our preſent Eſtabliſhment. What Recompence we can make for ſuch Services, may have ſomething in it dreadful to the Happineſs of *France*; for ſo that Nation is bent to believe. The little King is now entirely in his Hands at *Verſailles*; all the Apartments, like his Council, filled with the Partiſans of the Regent; none has Audience or Acceſs to H. M. but by Means and Leave of the Regent: Theſe are the Grounds of that Jealouſy which makes *France* to tremble. The Coronation of the King is likewiſe put off, and not to be ſolemnized till his Majority: A little Time now will let us ſee what Things will be brought to, and Affairs may eaſily determine into ſomewhat more happy than expected. If Matters are treated and negotiated in an amicable Manner, *Spain* muſt come off the Loſer; his Intereſt will be ſhared, as the weakeſt to defend himſelf, as a Præmium to ſatiate the reſt: *Italy* will certainly fall a Prey to the Emperor; he is at hand, ready, and none to oppoſe him there; and *France*, in the Diſpoſition it is in, troubles not herſelf how low *Spain* is reduced. All which *England* ſeeks, is to ſupport our happy Government, without any farther Ambition of Acquiſition, till the general Agreement is ſigned; which, if compaſſed in the Manner propoſed, cuts off all Pretences in any of thoſe foreign Potentates to favour, or to take the Advantage which may be offered, from the Viciſſitude we daily ſee in the Revolution of States. The Czar purſues with Vigour the Opportunity now offered

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in *Peſia*, and their Troubles offer all that he can deſire to make him victorious. R— Admiral *Gordon* commands the Fleet this Year in the *Baltick*, which goes out only to make Appearance: What other Deſigns there might have been are now laid aſide for another Seaſon. We are in Expectation of the Parliament's Meeting, and think it will produce ſomething new. The Succeſs thereof, with the Diſpoſition thereto, I ſhall expect to hear from the Goodneſs you are pleaſed to have for my Curioſity, and ſhall eſteem myſelf highly obliged to you for the Continuance of your Letters. —— I've the Honour to be with Reſpect and Eſteem,

SIR,

Your moſt obedient
and moſt humble Servant,
N. N.

H. 14.

Extract of an anonymous Letter to Mr. Burton.

To Mr. Burton, *at Mrs.* Whitten's *Houſe in* Great Rider's-ſtreet, St. James's, London.

The 19th of July 1722.

I Had the Honour to write to you this Day ſevennight, with an Inclos'd to Mrs. *Jones*; and as I promis'd then, I take the Liberty to trouble you with another, inclos'd for a Correſpondent, whom I thought had declin'd writing to me, upon the Difficulties of the Times. You'll be pleas'd to let Mrs. *Will.'s* know where you lodge, that this Anſwer may be ſent you. I find there is little News in your Parts, which makes my Friends ſlow in writing; however People labour in theſe, and reſume new Hearts.

H. 15.

Extract of an anonymous Letter, à Monſieur Monſieur Hooker.

A Monſieur Monſieur Hooker, *under a blank Cover*, à Monſieur Monſieur Pigot à Calais; *within which Letter was incloſed a Letter without any Direction, dated the 20th of* July, 1722.

Thurſday, July the 19th.

THO' I writ you a long Letter but this Day ſevennight, yet I think it proper to trouble you this Poſt with the Opportunity of conveying the inclos'd, by which you will find your laſt to me and to him found their Way: Your Letter was likewiſe deliver'd to Mrs. *Jones* the firſt Opportunity ſhe came to Town.

H. 16, 17, 18.

An anonymous Letter, without a Superſcription, incloſed in the Letter to Mr. Hooker *of the 19th of* July.

Letter without any Superſcription, incloſed in a Letter directed à Monſieur Hooker, *under a blank Cover*, à Monſieur Pigot à Calais.

SIR,

The 20th of July, 1722.

THIS Place affords News, and all honeſt Men are ſo well ſatisfy'd now with good King *George*'s Government, having ſuch wiſe, honeſt, and well deſcended Councellers, ſoch as *Cor-dogan*, *Mackartney*, *Wills*, and for other adviſes *Townſend*, *Warpoole*,

poole, *Parker*, and *Pratt*; the Fleet in Lord *Torrington* and ſoch: Wee now have the Fears from the Pretender's troubling of os, tho' I am certain things looke cherfolly in all your Freings Faces; but for my part I expect littly good froni any thing the Parliament will doe, for I really beleave this a worſe much then the laſt. All the Town is filled with Expectations of ſeeing the Funirale of Lord *Mallberrow* the 2d of *Agoſt*, who has left the vileſt Caracktar behind him ever yeat any one did: And you will are long ſee *Cor-d-gan* a Duke, and to have a blue Garter, and likewiſe all the former Atchivments of *Mallberow* attributed to *Cor-dogans* Care and Judgment, only excepting about 100,900 *l.* a Year goot by him and Dutcheſs ſcraping and Villanys. Lord *Chetwyn* and Lady he Baſha of the Ceralia are warned out, and a Cargo of new *German* Ladys of the largeſt Size are coming, and *Mahomet*, *Ulerick*, are to be Cheiſe over them. Sir *Sep. Hill*, and ſuch Informers, increaſe in all Places. And *Haſe* the Gameſter, and Lord *Londonderry*, are gone for *Paris*, and or Friends well know are Spys ſent hence to give Intelligance how the Regant behaves: In ſhort, only Villany, Begarey, and Mahomitiſam is countenanced by thoſe in Power. The K— goes a Progreſs to *Poretſmoth*, *Salesbery*, and ſome ſay will venter to *Plemoth* in *Aguſt*, to ſee the ſevrial Camps, and ſee himſelfe the Camps and Countinances of his Subjects, being ſo brave and experianced a Prince, and good Judge. The *South Sea* and *Bancke*, by *Screen*'s Management, are united, and 3 Millions of Checker Nots are coming out for the Benefit of the *Banke* to be circolated, that will, whenever the *Checker* pleaſe to ſtop Payments, as once before they did, carry of, in 3 Months, all the Coyne, and perhaps Plate and Jewels in the Land, unleſs by Providance relived; and moſt of your Freinds ſee the Deſigns of thoſe in Power only tend to bring us into a Commonwealth, if good K. *George* dos not ſee the Deſigns of the Vermin about him. I dare ſay no more, only I hope I underſtand yours of the 19 of *July*, and beleave me, unallterably,

S. I. R.,
Yours at Command,
M.

H. 19, 20.

An anonymous Letter to Mrs. Williams, *under Mr.* Burton's *Cover.*

To Mrs. Williams, *under Mr.* Burton's *Cover, at Mrs.* Whitten's *Houſe in* Great Rider's-ſtreet, St. James's.

Auguſt 3*d*, 1722.

IT is now ſome time, dear Sir, ſince I've been favour'd with your laſt. The Reaſons which have kept me from writing, are, I believe, the ſame, which ſo retain you from repeating me the Favour as often as I have been deſirous of it: The little News which has been ſtirring of late are not weighty enough to excuſe Importunity, and therefore I hope you judge favourably of me, without concluding me remiſs in the Acknowledgments I owe to your Goodneſs. The preſent Expectations are on the Negotiations now on foot at *Paris*. It is thought my Lord *Whit.* is charged with new Inſtructions from the Court of *Britain* deciſive to the Congreſs; the firſt Plenipotentiary of the Emperor has left theſe Parts to aſſiſt at thoſe Debates; the ſecond Plenipotentiary complains, and moves to be admitted to the Knowledge of theſe Affairs: As yet his Journey to *Paris* is not certain, and he is kept in ſuſpence by the uſual Chicans impos'd upon them; and according to all Appearance *France* will pay for all: And ſince the Pope declares openly for the Emperor, there is little Hopes left for him in *Italy*. The Regent plays a Game apart, and confides in none but *Britain*, and will ſacrifice *France*, as he has us, to make a faſt Friend of K. *George*. The late Diſappointment in our Affairs has given a ſurpriſing Power to the Court of *France*; they ſilence all other Princes in regard to us; none now dare look that way, or undertake the leaſt trifling Service in our Favour. Upon theſe Conſiderations, as I intend my return by the End of next Month, be pleas'd to ask *Harry* whether he could not procure me a Paſs againſt that time; I am too well known in theſe Parts to ſollicit that myſelf: If there be any thing I can ſerve you in, I hope you'll favour me with your Commands, ſince you know with what Reſpect and Sincerity I am,

Dear Sir,
Your moſt obedient, and
Moſt humble Servant,
N. N.

Extract of an anonymous Letter to Mr. Hooker.

A Monſieur Hooker, *under a blank Cover to* Mr. Pigot, *at* Calais.

Thurſday, Auguſt 2.

THIS is to tell you that I have yours, with the incloſed, dated the 5th—— and hope your Servant brought you one from me at his Return; for I have ſent you two, one follow'd the Week after the other, with an inclos'd from Mrs. *Will.* The firſt will tell you Mr. *Mo.* was out of Town; ſo I have burnt the inclos'd; I hope I did right, and believe you would think ſo were you here.

H. 22.

An anonymous Letter to Mrs. Jones, *under the Cover of Mr.* Burton, *at Mrs.* Whitten's *Houſe in* Great Rider's-ſtreet, *next Door to the Blue Bell,* St. James's.

A Letter to Mrs. Jones *at her Houſe in* Worceſter.

SIR,

Auguſt 13, 1722.

THE Viciſſitude in our Affairs being a perpetual Ebbing and Flowing, 'tis extreamly difficult to aſſure any thing with Certainty: In my laſt, of the 12th, I mention'd how things had happen'd, and although the Fact was true, yet the Conſequence did not anſwer what we apprehended; it was a politick Neceſſity, which urg'd and demanded that Conduct; and it appears now to have ſucceeded ſo well, that every Hand is at work, as before, to draw things to a right Concluſion. We are flatter'd that the Regent is cordially in our Intereſt, and diſpoſes every thing to undertake the Work, which, according to ſome Accounts, will be put in execution within two Months. Thoſe who are ſerious, and make due Reflection on theſe Matters, know how far they may be uſeful to the Cauſe; and with timely and prudent Precautions may diſpoſe their Friends to act a lively Part, whilſt they themſelves keep retir'd, till the Succeſs, one way or the other, determines what is neceſſary to be done.

I have Opportunity, by being in theſe Parts, of picking up ſeveral good Officers; and, with a little Trouble, as many as would compleat an entire Regiment, into which any Gentleman might enter himſelf and do his Duty with Honour. This is what I thought fit to propoſe on this Occaſion, and ſhould be glad to know, if ſolely upon your own Bottom this may be thought on. I ſhall take all neceſſary Precaution, and ſhall firſt know certainly what there is to depend upon. Your Opinion on theſe Matters, with the Aſſiſtance of your Advice, will lay a moſt ſenſible Obligation on him, who entirely devotes himſelf,

SIR,

Your moſt obedient, and moſt Humble Servant.

Let the Conveyer of theſe furniſh you with my immediate Addreſs.

H. 23.

Extract of an anonymous Letter to Mr. Hooker.

A Monſieur Hooker, *under the Cover of* Monſieur Pigault à Calais.

Monday, Auguſt the 6th.

I Have yours of the 12th, with the incloſed, and was in hopes to have ſent you word of its being deliver'd; but Mrs. *Jones* being out of Town, and not returning of three Weeks, has much diſappointed me. As for Mrs. *Will.* Letter, I did not know ſhe had any Direction to you herſelf, which made me not doubt you would know they were ſent by me.

Extract

H. 24.

Extract of an anonymous Letter to Mr. Burton.

To Mr. Burton, *at Mrs.* Whitten's *Houſe, next Door to the* Blue Bell *in* Great Rider's-ſtreet, *St.* James's, London.

D. 23d Auguſt, 1722.

AS to the Diſcoveries, I hope y--- come from *France* for the Dependencies which the governing Power has there of our Aſſiſtance to ſupport ſecret Views, will, I believe, keep 'em from ever entring ſincerely into any other Intereſt: And thoſe other Partiſans, who rely upon their Promiſes, are in truth but Tools to ſerve their own Turn with; and hence, I believe, thoſe Expectations have been twice fruſtrated of late.

H. 25.

Extract of a Letter to Mrs. Burton, *ſigned* N. N.

To Mrs. Burton, *at Mrs.* Whitten's *Houſe, next Door to the* Bell *in* Great Rider's-ſtreet, St. James's, London.

Bruxelles, *the 5th* Sept. 1722.

I Can't fix any time as yet about my Return. I long to ſee all things quiet firſt, and what it is you will do with K---*ly*. Inform your ſelf what you can concerning him; yet at your leiſure I ſhould be glad you would have an Eye upon a convenient Lodging.

I am ſorry you did not ſend my Letter to Mrs. *Fram*: I ſee no reaſon for the burning it; but you conſult great Men, and therefore I ſubmit. I am ſorry Mrs. *Jones* keeps out of the way, for I want much her Anſwer.

H. 26.

Extract of an anonymous Letter to Madame Lucy.

A Madame, Madame Lucy aux Rue des Carmes à Bruges.

Tueſday, September 4th.

I Had writ this Poſt, had I had no Letter from you, being deſired to let you know that Mrs. Jo. can't anſwer your Letter at preſent; for ſhe gave the Key to her Br. who is out of Town, ſo knows not where to find it.

H. 27.

Extract of an anonymous Letter to Mrs. Burton.

To Mrs. Burton, *at Mrs.* Whitten's *Houſe, in* Great Rider's-ſtreet, *next Door to the* Bell, St. James's.

Bruges, 19th Sept. 1722.

I Thank you for the Care you take of my Letters, particularly that of Mrs. *Jones*'s; for the future I ſhall have no occaſion to trouble her.

Extract

H. 28.

Extract of an anonymous Letter to Madam Lucy *at* Bruges.

A Madame, Madame Lucy, aux Rue des Carmes a Bruges.

Tueſday, the 18*th* Sept.

I muſt tell you, your Friends here all agree that you ſtay where you are, thinking it abſolutely neceſſary not to remove hither as yet.

Since I writ this, I was a little ſurprized to receive the Key, and not one Word. I hope no harm is the Reaſon of it.

H. 29.

Extract of an anonymous Letter to Mr. Burton.

To Mr. Burton, *at Mrs.* Whitten's *Houſe, next Door to the* Bell *in* Great Rider's-ſtreet, St. James's.

Bruges, *the* 1*ſt of* Octob. 1722.

I Hope *Sly* makes no long ſtay in Town, for I ſhall not like his Company when I return; by which you may obſerve that I am conſtant in my Diſaffections, as in thoſe where I place my Eſteem. As to his approving or diſapproving my Motions, his Opinion weighs very little with me; but 'tis not neceſſary he knows I deſign ſo ſuddenly to return. - - - I addreſſed ſince a ſingle Key, and ſhall venture one or two more, reſolving not to have with me, or about me, any thing but neceſſary Paper.

H. 30.

Extract of an anonymous Letter to Madam Lucy.

A Madame Lucy aux Rue des Carmes a Bruges.

Friday, Sept. 21*ſt.*

YOU ſee I obey Orders, ſo blame your ſelf if you pay more than the Value I told you. I had your Blank, with the incloſed Sum: I ſhall know the meaning of it in your next; you might have ſaid ſomething in the Paper, knowing my uneaſy Temper; but I hope to hear ſoon that you are well.

H. 31.

Extract of an anonymous Letter to Mrs. Spelman, *at Mr.* Knight's *Houſe in* St. James's-ſtreet, *over againſt* Park Place, London.

Dated B. the 11*th* Octob. 1722.

ALtho' as yet there appears no Danger by ſending Letters by the Poſt, I ſhall keep Mr. *Fowler's* till I can ſend it by ſome favourable Opportunity: When I ſend ſuch Letters as thoſe, or Keys, I do not think it proper to write any thing with them; and if they come ſafe, the Explication, which ſoon follows, will take off the painful Curioſity you complain of.

I ask you a thouſand Pardons for the Hurry and Trouble I give you; but expecting to be ſoon over, I was forc'd to hurry others as well as my ſelf; but ſince things fall out ſo croſs, I am determined to ſtay a while longer, till thoſe frighted recover their Senſes.

H. 32.

Letter to Madam Lucy *at* Bruges *from* C. S.

A Madame Lucy, Rue des Carmes a Bruges.

Octob. 8. 1722.

Honoured Dear SIR,

AFTER a very tedious Paſſage of two Days and three Nights ſail, I arrived here on *Saturday* Night, thank God, ſafe, without any queſtioning or other Difficulties at landing. I am obliged to the Ladies in *Carmes-ſtreet* for their good Prayers on this Occaſion; but if they had not prayed ſo hard, I ſhould not have been ſo long on my Paſſage; for we were becalm'd all the Time, tho' glad I was, and not without Reaſon, on *Friday* Night; for in the Miſt, which was very dark and thick, our blockheadly Mate run us on a Sand in the Mouth of the River, where we lay rolling and thumping the Ground for two long Hours; and, had the Weather been rough, or the Veſſel crazy, we ſhould have certainly been all loſt there. High-Water ſet us at Liberty again; and about one o'th' Clock in the Morning, *Saturday*, we purſued our Journey happily; ſo that upon the main, I have a great deal of Reaſon to thank the aforeſaid Ladies for their kind Prayers, as well as the other many obliging Civilities I received from them at *Bruges*.

I have been to wait on Mr. *Fowler*, and others of the Great ones here, and find them all very good; ſo I hope all Things will go well. I deſign to Morrow to carry your Love and Service to your Brother, which hitherto I could not poſſibly do. Mr. *Brockholas* and *Howarden* arrived here ſafe, and were gone into the Country before I came. I am not yet in the Way of News, ſo as to be able to give you any Account worth Writing: When I hear any Thing I can count upon for true, I ſhall not fail to ſend it you. I ſuppoſe 'tis no News, that my Lord *Orrery* and *North and Grey* are in the *Tower*; and my Lord of *York* is come to Town; and, 'tis ſaid, to be in Cuſtody, if not in the *Tower* too: There are others taken up in great Numbers; but I don't know their Names, nor the Truth of the Matter. Every body commends your Prudence in keeping out of the Way; and I am extremely glad when I think you are where you are. The Kindneſſes I have received from you will make me always rejoyce in your Welfare, and ſhare in the Misfortunes, if (God forbid) any ſhould ever happen to you. There's a Woman, a Nonjuror's Wife, that is ſaid to have been ſomething in the Family of our Maſter at *Rome*, I think her Name is *Lakes*, that cauſes a great deal of Trouble by her Informations here: But I tell you again, I have not got into any good Correſpondence here yet, in which I can get any certain News; ſo I will avouch for very little of all this. If there be any Thing at any Time I can be ſerviceable to you in, I beg you will give me the Satisfaction of doing ſomething in Return of the many Obligations I have to you. I am with all Reſpect,

Honoured Dear SIR,
Your very obliged, affectionate, and humble Servant,
C. S.

I lodge at Mr. *Tempeſt*'s, and known by the Name of *Green*, as well as by my own.

H. 33.

Extract of an anonymous Letter to Mr. Burton, *at* Mrs. Whitten's *Houſe in* Great Rider's-ſtreet, *St.* James's, London, *dated* Bruges, *the 1ſt of* November, 1722.

NEither can I ſee from your Letters whether the Keys be received, which I ſhall want when I return. In yours of the 12th, you acknowledge no Receipt of any, which could not well happen, conſidering the Diſtance of Time between 5 and 12: Beſides, if you write every Poſt, yours of the 9th has miſcarried. To render theſe Things clear, name the Dates of my Letter, as I do of yours, and we ſhall know what we do. I am extreamly pleaſed that the Delays which I make prove ſo acceptable; but do not ſee why you value yourſelf upon that Continuance: Whereas had you, before I had taken my Reſolution, only ſaid, that you did not think it proper, and ſupported the ſame with good Reaſons, I had moſt ſurely comply'd to your Requeſt alone.

Copy

Copy of Key and Cypher, inclos'd in a Cover to Mr. Burton, at Mrs. Whitten's House in Great Rider's-ſtreet, St. James's.

[The Original Key was writ by the ſame Perſon who frequently writes to Mr. Burton, and who has been writ to from London, and directed to by the Name of Hooker.]

A.	b.	c.	d.	e.	f.	G.	h.	J.	k.	l.	m.	n.	o.	p.	q.	r.	s.	t.	u.	w.	x.	y.	z.
30.	29.	28.	27.	26.	5.	25.	24.	23.	22.	21.	6.	20.	19.	18.	17.	16.	7.	15.	14.	13.	11.	10.	9.
20.	21.	22.	23.	24.	9.	25.	26.	27.	28.	29.	5.	20.	21.	22.	23.	24.	7.	25.	26.	27.	28.	29.	30.

an.	as.	at.	be.	by.	do.	go.	if.	in.	it.	me.	my.	no.	of.	on.	or.	ſo.	to.	up.	us.
31.	32.	33.	34.	35.	31.	32.	33.	34.	35.	36.	37.	38.	39.	40.	36.	37.	38.	39.	40.

and.	add.	all.	are.	air.	bat.	can.	day.	did.	far.	for.	has.	his.	him.	he.	her.	how.	ill.	man.	men.	may.	not.	nor.	now.
41.	42.	43.	44.	45.	41.	42.	43.	44.	45.	46.	47.	48.	49.	50.	46.	47.	48.	49.	50.	51.	52.	53.	54.

odd.	our.	own.	put.	you.	war.	Arms.	back.	been.	bond.	came.	come.	calm.	coſt.	done.	down.	Duke.	each.	earn.	foot.
55.	51.	52.	53.	54.	55.	56.	57.	58.	59.	60.	56.	57.	58.	59.	60.	61.	62.	63.	64.

from.	give.	good.	Hage.	Hand.	home.	King.	kind.	land.	laid.	lord.	loſt.	laſt.	long.	lend.	made.	make.	more.	much.	moon.	mild.
65.	61.	62.	63.	64.	65.	66.	67.	68.	69.	70.	66.	67.	68.	69.	70.	71.	72.	73.	74.	75.

Money.	once.	paſt.	poſt.	Pope.	puſh.	reſt.	read.	rich.	road.	room.	Rome.	ſame.	ſome.	ſide.	ſuch.	ſure.	ſoon.	ſlop.	ſick.
71.	72.	73.	74.	75.	76.	77.	78.	79.	80.	76.	77.	78.	79.	80.	81.	82.	83.	84.	85.

time.	they.	true.	this.	that.	take.	turn.	what.	wone.	well.	wore.	wood.	will.	warm.	your.	brisk.	bring.	court.	count.	croſs.	crown.
81.	82.	83.	84.	85.	86.	87.	88.	89.	90	86.	87.	88.	89.	90.	91.	92.	93.	94.	95.	91.

claim.	doubt.	death.	Dutch.	earth.	fleet.	frame.	found.	drift.	great.	grown.	grace.	hence.	Knave.	Laws.	March.
92.	93.	94.	95.	96.	97.	98.	99.	1.	96.	97.	98.	99.	1.	2.	3.

Night.	Noiſe.	North.	proud.	prone.	peace.	purſe.	prime.	quick.	right.	round.	Spain.	ſince.	ſtout.	South.	Sound.	Storm.
4.	100.	101.	2.	3.	4.	100.	101.	102.	103.	104.	105.	106.	102.	103.	104.	105.

trade.	truth.	twice.	which.	wrongh.	writt.	Zeal.	bright.	France.	fright.	frowns.	grounds.	health.	Prince.	things.
106.	107.	108.	109.	110.	111.	107.	108.	109.	110.	111.	112.	113.	114.	115.

think.	tricks.	brought.	friends.	foes.	thought.	taught.	ſhort.	lack.	Earl.	George.	James.	Czar.	thoſe.	thence.	hence.
116.	112.	113.	114.	115.	116.	117.	118.	119.	120.	117.	118.	119.	120.	8	8.

H. 34.

15

Copy of a KEY *directed to Mr.* Burton.

A.	B.	C.	D.	E.	F.	G.	H.	I.	K.	i.	L.	M.	N.	O.	P.	Q.	R.	S.	T.	U.	X.	Y.	Z.	d'autant
30.	29.	28.	27.	26.	5.	25.	24.	23.	21.	22.	6.	20.	19.	18.	17.	16.	7.	15.	14.	13.	11.	10.	9.	79.
10.	*11.*	*12.*	*13.*	*14.*	*9.*	*15.*	*16.*	*17.*	*19.*	*18.*	*8.*	*20.*	*21.*	*22.*	*23.*	*24.*	*7.*	*25.*	*26.*	*27.*	*29.*	*30.*	*5.*	pareeque 80.

ba.	be.	bi.	bo.	bu.	ca.	ce.	ci.	co.	cu.	da.	de.	di.	do.	du.	fa.	fe.	fi.	fo.	fu.	ga.	ge.	gi.	go.	gu.	queſtion
31.	32.	33.	34.	35.	*31.*	*32.*	*33.*	*34.*	*35.*	36.	37.	38.	39.	40.	*36.*	*37.*	*38.*	*39.*	*40.*	41.	42.	43.	44.	45.	85.

ha.	he.	hi.	ho.	hu.	Ja.	Je.	Ji.	Jo.	Ju.	Ka.	Ke.	Ki.	Ko.	Ku.	la.	le.	li.	lo.	lu.	ma.	me.	mi.	mo.	mu.	volonté
41.	*42.*	*43.*	*44.*	*45.*	46.	47.	48.	49.	50.	*46.*	*47.*	*48.*	*49.*	*50.*	51.	52.	53.	54.	55.	*51.*	*52.*	*53.*	*54.*	*55.*	86.

na.	ne.	ni.	no.	nu.	pa.	pe.	pi.	po.	pu.	qua.	que.	qui.	quo.	qu'u.	ra.	re.	ri.	ro.	ru.	ſa.	ſe.	ſi.	ſo.	ſu.	vous. nous
56.	57.	58.	59.	60.	*56.*	*57.*	*58.*	*59.*	*60.*	61.	62.	63.	64.	65.	*61.*	*62.*	*63.*	*64.*	*65.*	66.	67.	68.	69.	70.	87. 88.

ta.	te.	ti.	to.	tu.	va.	ve.	vi.	vo.	vu.	cha.	che.	chi.	cho.	chu.	J'ai.	on	dit	que	les.	receu.	quand.	reponſe.			il elle
66.	*67.*	*68.*	*69.*	*70.*	71.	72.	73.	74.	75.	76.	77.	78.	79.	80.	*71.*	*72.*		*73.*		*74.*	*75.*	84.			89. 90.

votre.	notre.	autre.	par.	lui.	ſeul.	pour a cauſe.		car.	le.	&.	eſt.	des.	report.	plus. moins										
91.	92.	93.	94.	95.	96.	76.	77.	78.	4.	81.	82.	83.	8.	6. 12.										

tout.	rien.	choſe.	pluſieurs.	tems	grand.	peuple.
28.	97.	98.	99.	1.	2.	3.

A. 1. Accommodement. 2. Anglois. 3. Angleterre. 4. Armement. 5. Allemagne. 6. Allie. 7. Alliance. 8. Ambaſſadeur. 9. Ami.
10. Armeé. 11. Armes. 12. Amſterdam. 13. Aſſemblée.

H. 35.

KEY *continued.*

B. 1. Baron de. 2. Baniere. 3. Bataille. 4. Bataillon. 5. Baviere. 6. Baltique. 7. Berlin. 8. Bremen. 9. Du Bois. 10. Beretti Landi. 11. Bon. ou bonne.

C. 1. Cabinet. 2. Cardinal. 3. Campagne. 4. Cavallerie. 5. Czar. 6. Congrés. 7. Convoy. 8. Conseil. 9. Commerce. 10. Compte de. 11. Courier. 12. Conspiration. 13 Cour de. 14 Copenhague.

D. 1. Danemarc. 2. declaration. 3. defaite. 4. douairiere. 5. dissention. 6. Duc. 7. Doge de. 8. Ducheſſe. 9. defenſe. 10. Dreſden.

E. 1. Envoyé. 2. Elect^r de. 3. Emp^r. 4. Ennemi. 5. Empire. 6. Eſpagne. 7. Etats Generaux. 8. Ecoſſe. 9. Eſcadre. 10. Expreſs. 11 Extraord^re.

F. 1. Flote. 2. Florence. 3. France. 4. Frontiere. 5. Flandre.

G. 1. Garantie. 2. Garand. 3. Garniſon. 4. Guerre. 5. General. 6. Genes. 7. Gouverem^t. 8. Geneva. 9. George. 10. Grimaldo.

H. 1. Hanover. 2. Homme. 3. Hongrie. 4. Hollande. 5. Hoſtilité. 6. Hamburg. 7. la Haye.

I. 1. Infanterie. 2. Infant. 3. Indes. 4. Iſles. 5. Italie. 6. Imperiaux. 7. Inveſtiture. 8. Jacques.

L. 1. Liege. 2. Lisbonne. 3. Lorraine. 4. Legitime. 5. Londres. 6. Lubec. 7. My Lord. 8. Loy.

M. 1. Madrid. 2. Marechal de. 3. Marquis de. 4. Marriage. 5. Mediation. 6. Mediateur. 7. Mediterraneé. 8. Miniſtre. 9. Miniſtere. 10. Monſieur. 11. Munitions. 12. Modene. 13. Marr. 14. Mer.

N. 1. Nation. 2. Neutralité. 3. Nord. 4. Navigation. 5. Negligence.

O. 1. Ordinaire. 2. Orleans. 3. Ordre. 4. Offenſive. 5. Oxford. 6. Oliver. 7. Ormond.

P. 1. Pape. 2. Paris. 3. Paix. 4. Parlement. 5. Parme. 6. Peuple. 7. Prince. 8. Princeſſe. 9. Pretendant. 10. Pruſſe. 11. Pologne. 12. Portugal. 13. Potentat. 14. Plenipot^re.

Q. 1. Quartier. 2. Querelle. 3. quoyque. 4. Qualité.

R. 1. Reſident. 2. retraite. 3. Republique. 4. Regence. 5. Regiment. 6. Rome. 7. Roy de. 8. Reine de. 9. Royaume. 10. Royal. 11. Rebellion. 12. Reſtauration.

S. 1. Sa Sainteté. 2. Sa M. C. 3. S. M. T. C. 4. S. M. Imp^le. 5. S. M. Brit^que. 6. S. A. Royalle. 7. S. A. Elect^re. 8. S. A. Ser^me. 9. Son Excellence. 10. Savoy. 11. Suede. 12. Souveraigne. 13. Seance. 14. Saxe.

T. 1. Treve. 2. Traité. 3. Toſcane. 4. Turin. 5. Turc.

U. 1. Vaiſſeau. 2. Veniſe. 3. Vienne. 4. Vicomte de. 5. Viceroy. 6. Victoire. 7. Union. 8. Walpole. 9. Voyage.

D. O. & J.

H. 35.

COPY of a Key directed to Mr. Burton.

A	B	C	D	E	F	G	H	i	J	K	L	M	N	O	P	Q	R	S	T	V	U	W	X	Y	Z
30	29	28	27	26	5	25	24	23	22	21	6	20	19	18	17	16	7	15	14	13	8	12	11	10	9
1ø	1x	1z	1ʒ	1ɣ	9	1ʃ	16	17	18	19	8	2ø	2x	2z	2ʒ	2ɣ	7	2ʃ	26	27	6	28	29	3ø	5

ba	be	bi	bo	bu	ca	ce	ci	co	cu	da	de	di	do	du	fa	fe	fi	fo	fu	ga	ge	gi	go	gu
31	32	33	34	35	3x	3z	3ʒ	3ɣ	3ʃ	36	37	38	39	4ø	3ø	37	38	39	4ø	41	42	43	44	45
ha	he	hi	ho	hu	Ja	Je	Ji	Jo	Ju	ka	ke	ki	ko	ku	la	le	li	lo	lu	ma	me	mi	mo	mu
4x	4z	4ʒ	4ɣ	4ʃ	46	47	48	49	50	4ø	47	48	49	5ø	51	52	53	54	55	5x	5z	5ʒ	5ɣ	5ʃ
na	ne	ni	no	nu	pa	pe	pi	po	pu	qua	que	qui	quo	qu'	ra	re	ri	ro	ru	ſa	ſe	ſi	ſo	ſu
56	57	58	59	60	5ø	57	58	59	6ø	61	62	63	64	65	6x	6z	6ʒ	6ɣ	6ʃ	66	67	68	69	70
ta	te	ti	to	tu	va	ve	vi	vo	vu	za	ze	zi	zo	zu	cha	che	chi	cho	chu	pour.	acauſe.	car.	d'autant
6ø	67	68	69	7ø	71	72	73	74	75	7x	7z	7ʒ	7ɣ	7ʃ	76	77	78	79	80	7ø	77	78	79

Parceq 8ø

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La Chifre acheve avec le nombre de 281.

Donati & Ortis.

Pl. 36.

19.

COPY of the Key of a Cypher, incloſed under a Blank Cover to Mr. Burton.

A. 1. Army. 2. Alliance. 3. Expedition. 4. Battle. 5. Defaite. 6. Miniſters. 7. Miniſtry.

B. 1. King of England. 2. of France. 3. of Spain. 4. of Portugal. 5. Pruſſia. 6 of Denmark. 7. of Suede. 8. of Sardinia. 9. The Emperor. 10. The Turk.

C. 1. The States of Holland. 2. of Venice. 3. of Genoa. 4. of Geneva. 5. Republick of Poland. 6. King of Poland.

D. 1. Prince of Savoy. 2. Prince of Modena. 3. Prince of Parma. 4. Prince of Wales. 5. Prince of Aſturie. 6. Duke of Hanover. 7. P. George.

E. 1. Duke of Bavaria. 2. Elect[r] of Treves. 3. Elect[r] of Mayence. 4. Elect[r] of Cologne. 5. P. of Saxe. 6. Bp. of Munſter. 7. P. of Heſſe. 8. P. of Florence.

F. 1. London. 2. Paris. 3. Madrid. 4. Amſterdam. 5. Petersburg. 6. Dantzig. 7. Hamburg. 8. Berlin. 9. Stockholm. 10. Copenhagen. 11. Vienna. 12. Dreſden.

G. 1. Moſcow. 2. Plenipotentiary. 3. Miniſter of France. 4. Min. of England. 5. Min. of Spain. 6. Emp[r's] Min[r]. 7. The Czar's Min[r]. 8. The Dutch Miniſter.

H. 1. Milan. 2. D. of Orleans. 3. D of Ormond. 4. D. of Mar. 5. D. of Berwick. 6. M. Dillon. 7. D. of Norfolk. 8. Ld. Strafford. 9. Ld. Stafford.

I. 1. Ld. Oxford. 2. Ld. North and Grey. 3. Ld. Bolingbroke. 4. Ld. Lanſdowne. 5. C[t]. Haye. 6. Abbé Howard. 7. Mr. Jerneghan.

K. 1. Catholicks. 2. Bp. 3. Cardinal. 4. Jacobit. 5. Queen. 6. Dutcheſs. 7. Admiral. 8. Admiralty. 9. Bruxelles.

L. 1. D. of Argyle. 2. Ld. Cadogan. 3. Ld. Townſhend. 4. Walpole. 5. B. Bernsdorf. 6. B. Bothmer. 7. Hanover. 8. Secretary of State.

M. 1. Affairs. 2. Agreement. 3. Ambaſſador. 4. Ammunition. 5. April. 6. Believe. 7. Bribe. 8. Plot. 9. Bill of Exchange. 10. Church.

N. 1. Coaſt. 2. Command. 3. Conſequence. 4. Council. 5. Chancelour. 6. Correſpondence. 7. Deceive. 8. Declare. 9. Declaration.

O. 1. December. 2. Disband. 3. Election. 4. Except. 5. Expectation. 6. Favour. 7. February. 8. Foreign. 9. Flanders. 10. Full Power.

P. 1 General. 2. Germans. 3. Scotland. 4. Ireland. 5. Edinburgh. 6. Dublin. 7. Hear. 8. Horſe. 9. Hopes. 10. H. of Lords. 11. Houſe of Commons.

Q. 1. A Hundred. 2. A Thouſand. 3. A Million. 4. Impoſſible. 5. Indemnity. 6. Journey. 7. November. 8. June. 9. July. 10. Auguſt. 11. January.

R. 1. September. 2. October. 3. Near. 4. Negotiat. 5. Inſtructions. 6. Know. 7. Keep. 8. Officers. 9. Letter. 10. Received. 12. Parliament.

S. 1. Portugal. 2. Peers. 3. Pleaſed. 4. Liege. 5. Livres French. 6. Leagues. 7. Majority. 8. Maſter. 9. Man of War. 10. Merchant.

T. 1. Miles. 2. Meddle. 3. Meet. 4. Poſſible. 5. Opinion. 6. Probable. 7. Private. 8. Profit. 9. Prorogue. 10. Publick. 11. Pounds Engliſh.

U. 1. Paſſes. 2. Poſſeſſion. 3. Quarrel. 4. Ready. 5. Rebellion. 6. Report. 7. Reſtore. 8. Reſtoration. 9. Refuſe.

W. 1. Satisfy. 2. Serve. 3. Signal. 4. Spring. 5. Strength. 6. Summer. 7. Surprize. 8. The Sound. 9. Signed. 10. Set out.

X. 1. Treaſury. 2. Tories. 3. Tranſports. 4. Undertake. 5. Uſeful. 6. Whigs. 7. Women. 8. Majeſty.

Y

Z

A Key and Cypher with Mr. Farmer *and* Jery.

I.

PAPERS

RELATING TO

SCOTLAND.

I.

List of Papers relating to Scotland.

1 LEtter from *James Johnſon* to *James Johnſon*, alias *George Kelly*. 1722 *March* 1. Page 3

2 Information of *Lodowick Anderſon*. *April* 1. ibid.

3 Copies taken at the Poſt-Office of two Letters from *Calderwood*, one to *Smith*, and the other to *de Martin*. *April* 21. P. 4

4 5 Originals of the foregoing Letters.

6 Copy taken at the Poſt-Office of a Letter from *Howel* to *Johnſton*. *May* 1. 12. *N.S.* ibid.

7 Copy of a Letter from *William Ereskine* to Mr. *Waters*. *May* 3. p. 5

8 Copy of a Letter from *William Ereskine* to Mr. *Gerard*. *May* 3. ibid.

9 Copy taken at the Poſt-Office of a Letter from *Graham* to *Collins*. *May* 4. p. 6

10 Letter from Lord Juſtice *Clerk* to Lord *Townſhend*. *May* 15. p. 7

11 Letter from Lord *Mar*, taken out of *Will. Erskine*'s Pocket. *Feb.* 9. *N. S.* p. 8

12 Extract taken at the Poſt-Office of an Anonymous Letter to *Maule*. *Feb.* 22. p. 9

13 An Anonymous Letter to Lord *Townſhend*. *June* 12. 23. *N. S.* p. 10

14 Cypher incloſ'd in the foregoing Letter ibid.

15 Anonymous Letter to *Collins*. *May* 29. p. 13

16 Copy of a Letter from *Rob. Broun* to *Hary Blair*. *June* 1. 12. *N. S.* ibid.

17 Letter from *Robert Broun* to *Hary Blair* p. 14

18 Copy taken at the Poſt-Office of a Letter from —— to *Peter Smith*. *June* 11. ibid.

19 Original of the foregoing Letter.

20 Copy taken at the Poſt-Office of a Letter from *Geo. Mackenzie* to *Kenneth Mackenzie*. *June* 11. 22. *N. S.* p. 15

Edinburgh, March 1, 1721-2.

Ja. Johnſon *to* George Kelly.

SIR,

I Receiv'd your Letter the other Day. I thank you heartily for the Trouble you were pleas'd to take; if any thing further of that Kind comes your Way, if you are ſo good as to forward it, I'll be ſingularly oblig'd to you. I'm, moſt reſpectfully, Sir,

Your moſt humble Servant,
Ja. Johnſon.

I. 2.

The INFORMATION *of* Lodowick Anderſon, *given the* 1*ſt Day of* April, 1722.

THE ſaid Informant ſaith, That he was, on the 28th Day of *January* laſt, at the Houſe of Sir *John Mackenzie* of *Coul*, where he did then ſee Brigadier *Mackintoſh*; (who was formerly taken at *Preſton*) and that the ſaid *Mackintoſh* did, at that Time, acquaint this Informant, that the Pretender deſign'd to have on the Crown of *Scotland* before *Midſummer* then next; and that he was to be aſſiſted from *Spain*, *Muſcovy*, and *France*, and that he expected General *Gordon* and Capt. *Tulloch* would land with Arms and Saddles at the *Loach Elch*, and that he likewiſe expected many of his Friends over every Day. And the ſaid Informant further ſaith, That about the 15th Day of *February* laſt, he ſaw the Lord *George Murray* (one of the Duke of *Athol*'s Sons) at an Alehouſe within a Mile of the Earl of *Kintore*'s Houſe, who then confirm'd to this Informant, all that the ſaid *Mackintoſh* had told him; and further told him, that their Buſineſs in *Scotland*, (meaning, as this Informant believes, himſelf, and the ſaid *Mackintoſh*, and others, who were return'd to *Scotland* from foreign Parts) was to make the Loyaliſts (meaning the *Jacobites*) have their Men in readineſs, for that a great many Forces would land on the South of *Edinburgh*, near the Earl of *Winton*'s Houſe, for which they never had ſuch an Opportunity ſince Queen *Anne*'s Death; and then aſſur'd this Informant, that he ſhould be well rewarded for the Loſſes he had ſuſtain'd, and for his Impriſonments. And this Informant further ſaith, that about two Days after he had had ſuch Diſcourſe with Lord *George Murray* as above, he did meet with Mr. *James Keith*, Brother to the Earl of *Marſhal*, at *Burnſick* of *Glenbervie*, who after having told this Informant, that there would be ſuch a Deſcent in Favour of the Pretender, as above ſet forth, acquainted him, that Sir *Alexander Cameron* (chief of that Name) came over with him to manage Affairs, as did alſo *Alaſter Ban*, Mr. *Donald*, Nephew to *Glengary*, and Mr. *Gregor* of *Glengill*.

Lodowick Anderſon maketh Oath, that the Contents of the above Information, which he gave the firſt Day of *April* laſt paſt, are true.

Jurat 130 *die Junii* 1722. *Lodowick Anderſon.*
Coram me
Cha. Delafaye.

I. 3.

Two Letters, one to Mr. Peter Smith, *and the other to M.* de Martin *at* Bologne, *from* Thomas Calderwood. *Dated at* Edinburgh *the* 28*th of* April, 1722.

A Monſ. Peter Smith, *à* Bologne *en* Picardie, *with an incloſ'd directed to Monſ.* de Martin.

THE above-mention'd Packet came to the Inland Poſt Office here in *London* but on Friday laſt with the Country Letters, and therefore could not be forwarded.

A Monſ.

A Monſ. Peter Smith *à* Bologne.

Edinburgh, April 28, 1722.

My dear Peter,

DEliver the inclos'd, and excuſe this ſhort Line, for this Minute I am going to ſit down to ſup with Duke *Hamilton*. I'll write you fully by next Poſt. Adieu my dear *Peter*.

Not Sign'd.

A Monſ. de Martin.

Edingburgh, April 28, 1722.

Dear Sir,

I Had the Pleaſure to receive your kind obliging Letter ſome few Days ago. I muſt ſay that I am very ſenſible of the Honour you did me, in remembring me ſo kindly; and, for my own Part, I ſhall be very glad of Occaſions to teſtify how much I am yours. It's with no ſmall Pleaſure I can tell you, that our Cuſtomers on this Side of the Water, are as fond of taking our Goods, as you are of ſending them. I muſt needs ſay, I am afraid, if they be not ſoon ſent, the Markets will be fore-ſtall'd, for our Enemies begin to be on their Guard, and do endeavour to bring their Goods to the Markets as ſoon as ours; however, you may depend upon it, no Body ſhall be more ready or more willing to bring them to the deſir'd Effect than I. I muſt ſay, I am very glad to find that our Friends in *England*, are not only willing to receive our [*doubtful whether it be your Goods or our Goods*] Goods, when ſent, but even deſigns to ſend Money to pay for them *per* Advance; on the other Hand, we in this Place are very far from being backward; for I hope that we, in few Days, will be able to remit as much Money as will be ſufficient for our Country. I ſhall take it as a great Favour done me, if you'll let me know from Time to Time how ſoon we may expect our Wines on this Side of the Water, that ſo we may put our ſelves in a ſufficient Poſture for receiving them. I hope you'll do me the Juſtice to believe. I am,

Dear Sir,

Your affectionate humble Servant,

Tho. Calderwood.

Four and Five were the Originals.

I. 6.

A Letter from Ch. Howell *to Mr.* James Johnſton.

To Mr. James Johnſton, *to the Care of Mr.* William Neilſon, *Banker*, Edinburgh, *by* London,

—— $\frac{1}{12}$ *May*, 1722.

Dear Sir,

THIS is to own yours of the 17th of *April*, which I imparted to Meſſieurs *King* and *Graham*; they are mortify'd to the laſt Degree, to ſee the Time drawing near, at which they muſt acquit the Bills accepted from Meſſieurs *Smith* and *Hope*, without the Security of a Remittance from their Correſpondents there, to whom they have made their Condition known.

I diſcover two Notions in your Letter, by which, I fear, Perſons concern'd make themſelves eaſy on this Point; you ſay firſt, you are convinc'd Meſſieurs *Smith* and *Hope* will find it their Intereſt to behave in a friendly Manner with their Copartners; that Reaſon can ſtand good no longer than they are waiting for the proper Seaſon, if then they find a Proſpect of engroſſing the Benefit of the Market, I aſſure you little Regard will be had for Copartners, none that knows them can doubt of that; Mr. *Hope* is very reaſonable on the Points, but *Smith* is coveteous, and not to be depended on: You ſay, after that, it's hoped Mr. *Prince* will be diſpos'd to give a helping Hand on a good Occaſion; Meſſieurs *King* and *Graham* do not find it reaſonable to depend on that, they know he expects to have ſome Calls upon himſelf, more preſſing than any Intereſt they can offer; beſides, he will not hearken to break off Society with Mr. *Pool*, until he ſees our Houſe in a thriving Way, that he may run no Riſk in advancing a ſmall Matter to ſupport it; thoſe who know Mr. *Prince* intimately, aſſure this is his true Character. Meſſieurs *King* and *Graham* are ſatisfy'd it is

it is ſo, and pray you will give this Account to Correſpondents with you, that Matters may not fail for want neceſſary of Lights. They have already engag'd into Bargains for the approaching Vintage, which they will not be able to make good, if not ſupported as you promis'd they ſhould be, and that without loſs of Time; they are aware of Difficulties, which occur at Preſent in Money Matters; but ſtill they hope ſuch can be got over with due Application, and the Proſpect of ſuch a conſiderable Gain.

There is enough of Buſineſs; now to News; they ſay nothing here of the Congreſs, but much of a War in *Italy*, they ſay the *Spaniſh* General Marqueſs *de Lede* is come here, and the Duke of *Berwick* expected, from whence they pretend a Conſult about War. The young King's Remove to *Verſailles*, his Coronation and all other ſuch Expences are laid aſide.

Colonel *Charles Courchill* is come here, by Mr. *Walpole*'s Orders, to entertain the Friendſhip, and ſettle the Correſpondence, leaſt Lord *Sunderland*'s Death ſhould occaſion any Interruption. Some ſay, he has private Orders to ſollicit General *Dillon*'s Removal, and ſuch other Jacobites; but I hear ſome of thoſe *French* ſay, he will hardly carry that Point.

A little Country News helps always out a Letter of Buſineſs; for my Part I love it much ſo, and begrudge the Poſtage of a very ſhort Letter from ſuch a Friend as you are. I am ſincerely,

Dear Sir,

Yours, &c.

Charles Howell.

I believe you will hear ſoon from Mr. *Manly*.

I. 7.

A Letter from Mr. William Erſkine *to Mr.* Waters, *Banker in* Paris.

Edinburgh, the 3d of *May*, 1722.

Mr. *Waters*, *Sir*,

MR. *Gerard*'s Friends here having order'd him a Credit for 2000*l.* Sterling, by Mr. *James Gordon*, a Merchant here, upon Mr. *Robert Arbuthnot*, Banker in *Rouen*, the Credit being to my Order, I have taken the Freedom to order it to you, in Caſe Mr. *Gerard* be out of the Way; you'll be ſo good as forthwith to let the inclos'd be deliver'd to him, and follow his Directions in the whole. Excuſe this Trouble. I am ſincerely,

Your moſt humble Servant,

William Erſkine.

I. 8.

A Letter to Mr. Gerard, *from Mr.* Erſkine, *inclos'd in one to Mr.* Waters *at* Paris.

Edinburgh, the 3d of *May*, 1722.

SIR,

I Am perfectly pleas'd to tell you, that your Friends have at laſt comply'd with your Requeſt, and have order'd you a Credit for 2000*l.* Sterling, by *James Gordon*, Senior, upon Mr. *Robert Arbuthnot* of *Rouen*. I am perſuaded you will manage it frugally, and to the beſt Account, as they expect; the Credit is to my Order, and I have order'd Payment to be made by Mr. *Arbuthnot* to Mr. *Waters*. They will both acquaint you of it, and follow your Directions in it. I am heartily,

Your moſt humble Servant,

William Erſkine.

I. 9.

A Letter from Mr. Walter Grahame *to Mr.* Collins.

A Monſieur Collins *chés Monſieur*
Watters, *Banker à* Paris.

May the 4th, 1722.

My dear Sir,

BY mine to you dated the firſt Inſtant, I acquainted you that I had procur'd from Mr. *Wallace*, a Return to Mr. *Bruce*, Mr. *Baxter*, Mr. *Falconer*, and yourſelf, in Terms that I perſuade myſelf will ſatisfy; and as I'm as ſecure of that Gentleman's ſincere Inclinations, as Words and Expreſſions of the ſtrongeſt Kind can make me; ſo I congratulate you upon the Acceſſion to your trading Company, of a Perſon of ſo great Weight and Influence in the Parts where he lives: However, as I then writ, he is very preſſing that I ſhould be Maſter of the Contract of Copartnery, and has in his Letter to Mr. *Malcome*, ſignify'd theſe his Inclinations, ſo that I hope you'll make no Difficulty to tranſmit thoſe Papers, with the firſt ſure Occaſion, ſince you may depend on't, tho' in my Hands, he ſhall not be Maſter of them without your Allowance. There is one Thing known in his Circumſtances, which makes a Compliance with this Requeſt neceſſary, that is, that no Man will truſt his Re-admiſſion to your Company without thoſe Teſts, and that the denying of this Requeſt may chagrine him again, which is by no Means Mr. *Ferguſſon*'s Intereſt; for to be ſure he is a Perſon, as that Country is now ſtated, of the greateſt Conſequence. He moreover deſires an Order from Mr. *Malcome*, of raiſing one or two Battalions, but this laſt I told him might come Time enough, by the Hands of thoſe, who may happen firſt to come to open the Commerce.

In the Cloſe of my laſt, I hinted my Inclinations of writing a little in Relation to myſelf, which I now adventure to do to you, as the ſecond Man on Earth that I repoſe moſt Truſt and Confidence in, and muſt at the ſame Time intreat, that whatever you may think of the Propoſal, you may not judge the worſe of the Perſon in whoſe Favour it is made, who is able to advance ſeveral Reaſons in Support of it, that are not convenient to be mention'd at ſo great a Diſtance.

To keep you no longer in Suſpence; what I now expect from your Friendſhip, is, that by the Means of Mr. *Baxter*, you endeavour to procure in my Favours from Mr. *Malcome*, a Patent of Knight Baroner, and that as ſoon as poſſible may be.

I do acknowledge a Demand of this Kind, from one in my Circumſtances may appear pretty Singular, but as you are no Stranger to my poor Endeavours, from firſt to laſt in Behalf of Mr. *Malcolme* (which being but my Duty, I dare plead no Merit upon) ſo when I aſſure you, that a Mark of Favour of this Kind, may prove a powerful Argument with Mr. *Wilſon*, to contribute liberally towards my Support, after ſo many Alterations as have happen'd in our little Family of late, you will not, I hope, condemn me either of Folly, or what in any other View might be chargeable on ſuch a Demand; for you may depend on't, it is not the chymerical Conſequences of ſuch a Favour, but the more material Advantages I have Reaſon to believe may attend it, that renders me ſo fond of Succeſs.

Thus my Dear, I've open'd my Breaſt to you, and to you only, leaving it to your Judgment to manage it as you think beſt, and aſſuring you at the ſame Time, that if I meet (for Reaſons not obvious to me at Preſent) with a Refuſal, I ſhall ever, without the leaſt Alteration, continue the ſame as formerly, the Motives of my Actions towards Mr. *Bruce*, I thank God for it, being better founded, than to be ſhaken or unhinged by Diſappointments: Whatever the Fate of this Affair may prove, I leave it entirely to yourſelf; confident, that be the Event what it will, it ſhall not blaze abroad till a proper Time come, and that you mention me not to Mr. *Baxter*, unleſs you find him previouſly inclin'd to concur, in procuring ſuch a Favour to one in ſuch Circumſtances, as you may juſtly repreſent mine to be; but all of this, the Means of obtaining as well as Things deſir'd, I throw entirely upon your Shoulders, with this only farther Caution, that if my humble Requeſt prove ſucceſsful, the Narrative or Preamble bear Services, and that for the more Secrecy, it be tranſmitted me blank.

Mr. *Fiſher* is here at Preſent, and offers his beſt Compliments to you and Mr. *Baxter*, he'll write you both ere he leave this Place, is mightly forward and deſirous of an Opportunity of convincing the World, otherwiſe than by Words, how much his Actions have been miſtaken.

Pray

Pray mind me with great Reſpect and Eſteem to Mr. *Baxter*, and believe me ever, with fix'd Affection, to be,

My Dear Sir, your ain,

Walt. Grahame.

I muſt keep Mr. *Wallace*'s Letters till Mr. *Baxter* ſends me Directions how to tranſmit them.

Mr. *W. E.* ſhew'd me t'other Day the State of your late Scrape with Mr. *M——y*, 'tis a pretty odd Story I muſt own, and leaves your Antagoniſt in the Dirt.

I have writ of late four Letters to Mr. *Clarke*, without a Return, all this I impute to the Freedom I us'd with him on your Account, however, ſuch Misfortunes, though undeſerved, can't be help'd. *Adieu.*

Let me have your Opinion of the Contents of this Letter as ſoon as poſſible. I wiſh it may be agreeable, ſince I think I have ſomething at Stake, that depends in ſome Meaſure on my Succeſs in the preſent Demand.

Direct your Anſwer to this particular Letter to Mr. *Harry Blair*, Writer, to be found at his Houſe in *Allen*'s-Cloſe oppoſite to the Croſs, *Edinburgh.*

This is anſwer'd by a Letter from *Robert Brown* to *Harry Blair*, Writer in *Edinburgh*, without Date, but that came by the *French* Mail. Receiv'd 4. *June.*

I. 10.

A Letter from Lord Juſtice Clerk *to Lord* Townſhend.

My Lord, *Edinburgh* 15. *May* 1722.

THIS Day near to eight in the Morning, I had your Lordſhip's of the 11th by a Meſſenger, at reading of which, finding it referred to what your Lordſhip had diſpatched the Day before, I was very uneaſy, having heard nothing of the firſt; but about one Hour after, the firſt came; I immediately diſpatched the Letters for the ſeveral Governors, and that for the Provoſt of *Edenbro'*; then upon conſidering theſe directed to my ſelf, I iſſued an Order for ſeizing the Perſon of Mr. *William Erskine*, with all his Papers, which was duly executed, and he is committed, according to my Order, cloſe Priſoner in the Caſtle, which I hope will be allow'd of, for I cannot put any Confidence in making a Priſoner cloſe in the *Tolbooth*. Amongſt the Papers taken out of his Pocket, your Lordſhip has a Copy of one appears moſt material; 'tis written in my Lord *Marr*'s own Hand. *H. S.* is *Harry Stirling*, Nephew to Dr. *Erskine*, who waited on the *Czar*, and has been there ever ſince the Doctor dy'd. *M——y* is *James Murray*, who is known by *Stormont James*; the reſt of that Letter is very plain. I examin'd Mr. *Erskine* upon the two Letters about the 2000*l.* Sterling; he own'd he had procur'd that Credit from *James Gordon*, Sen. on *Arbuthnot* at *Rouen*; that Mr. *Waters* is a Banker at *Paris*, but for Mr. *Gerard*, all he would ſay, he is a Gentleman at *Paris*; refus'd to know of any Deſign againſt the Government, yet when preſs'd upon the remitting ſo conſiderable a Sum, he ſaid there were many of our Countrymen in Want, and if their Friends had furniſh'd Credit, it was not to be thought ſtrange, when perhaps the Sum was to be paid in Parcels, and not all at once. I put the Queſtion to him who theſe Friends where, had furniſhed the Credit; refuſed to anſwer; I then told him the Government was ſufficiently appriſed of bad Deſigns againſt them; all he ſaid was, the Government could not but know there were many diſcontented People at preſent in the Kingdom, and if the Gentlemen who have been abroad for ſome Time, and in Want, ſhould think of improving the Opportunity, he did not know; but whatever was in that, he believed the Government would find there was not much in it: Refuſed he knew of any Deſign of an Invaſion from abroad, or that any foreign Power was in Concert with the fore-faulted Perſons abroad. Upon this firſt Examination, I did not find any Diſpoſition to make a Diſcovery, yea, was very reſerved. The Laws of *Scotland* allowing only eight Days cloſe Impriſonment, obliges me to ſend away one of the Meſſengers with Account of my Diligence, and for further Orders about Mr. *Erskine*. The Perſon meant by in the former Part of *Marr*'s Letter, is certainly *Marr* himſelf. When I firſt examin'd *James Gordon* as to the furniſhing Credit on

Robert

Robert Arbuthnot for 2000 *l.* Sterling, he poſitively refuſed it. I have again called *James Gordon*, but have not gotten ſuch clear and diſtinct Anſwers as can ſatisfy; wherefore I have put him under Bail. He and Mr. *Erskine* differ widely as to the Manner of giving that Credit. Mr. *James Johnſon* is not in Town, but he's expected to morrow, and I ſhall endeavour to ſpeak with him, and give Account by the other Meſſenger. I have the Honour to be, with all due Reſpect,

My Lord,
Your Lordſhip's
Moſt obedient and moſt humble Servant,
Ad. Cokburne.

Lord *Marr*'s Letter is not ſign'd, but 'tis all written in his own Hand.

I. 11.

A Letter taken out of Mr. Erſkine's *Pocket*, 15 May 1722.

From P. Mar. *Paris, Feb. 9.* 1722.

I Have, *William*, yours of the 7th, for which I am oblig'd to you, and take all you ſay, as I ought, from the good Heart from whence I know it comes; though at the ſame Time you put a greater Value on your Friend than he deſerves; but be that as it will, I am fully perſwaded, as you may be, that he will never fail an Occaſion for what you mean, nor neglect endeavouring to bring it about, where he ſees it can be of any Advantage to his Country; and his Friends and Countrymen may depend on it, when they ſee him engaged again, that the retrieving of it from the low Condition it is now in, and otherways ever like to be, is the chief Motive that induces him; and he hopes in that Way he will not be without the Aſſiſtance of all who wiſh the ſame Thing; and the more, that he will take all the Care he can, not to expoſe them for ſerving that of others, if at the ſame Time he be not pretty ſure of its doing effectual Service to their own, and putting it on a better Foot than it has been theſe hundred Years paſt. If he look'd but to his own private Intereſt, he could perhaps find a Way which could conduce more to it; but the Hopes by his former Actions, it appears, that he never put that in Competition with what he thought was the Intereſt of his Country; though in which he owns he was once miſtaken, as many others may have been; but as he never ſcrupled owning his Fault, ſince he found it by Experience to be one, ſo he has ever ſince endeavour'd to make amends, and will as long as he lives.

Things are in ſuch a Situation at preſent over all *Europe*, that there appears little of any Opportunity of doing what is to be wiſh'd upon that Account; but Things of this Kind are very uncertain, and an Opportunity may come, or be brought about, when leaſt expected; and you may believe it will not be neglected, when it does; nor will any Endeavours be wanting to bring it to that Paſs. Huſh, though, muſt be the Word, and Friends muſt not take amiſs their not being acquainted previouſly to the Execution, in which it is to be hoped they will not fail.

You ſee I make no ſcruple in writing freely to you, but you know the Conſequence of this coming into wrong Hands, and thoſe it is fit, and of uſe to be told to, you know too; ſo I leave it to your own Diſcretion, of which you have given me many Proofs. I have been much out of Uſe of Writing to *H. S.* for ſome Years paſt; and I have not yet got a Return of one I wrote him laſt Summer, but I ſhall write to him of what you mention in yours.

As to *M*——*y*, I care not to ſay more about him, and were it not that I think it for the Good of a certain Perſon and Cauſe, I ſhould not even wiſh to have all the Truth told of him, ſince his being abroad. I cannot anſwer for what Handles may be given him for his Juſtification, but let honeſt Men, who wiſh right, tell the Truth where they know it, and that it is neceſſary, and ſhame the Devil.

I wiſh you a good Journey, and good Luck, with all my Heart, and that we may ſoon have an Opportunity to meet merrily, and be of Uſe to our Country. My Compliments to our Friends, and I hope we ſhall never have Cauſe to be aſhamed of other.

I ſhall long impatiently to hear from you, after your getting to *London* and *Edinburgh*, and pray do not fail writing after your coming to both Places, and have ſeen People.

Send

Send me your Addreſs, and you may be ſure of hearing from me when it can be of any Uſe. Pleaſure it would be always to me, but that muſt yield ſometimes to Circumſtances.

My Family ſalute you, and wiſh you all Happineſs, as I do, who am ſincerely and affectionately yours, *&c.*

Adieu.

I wiſh you may have ſomething agreeable to tell me of your Brother and Uncle, when you have ſeen them, and remember me kindly to your Father in Law. Sure we muſt all wiſh the ſame Way to our Country.

What is become of our Couſin *Will*, who I hear is ſtill where you have been for ſome time?

I. 12.

Extract of an Anonymous Letter to Mr. Maule.

A Monſ. Maule *au Caffé* de Gregoire
Rue de la Comedie à Paris.

Edinburgh, May 22, 1722. *O. S.*

SIR,

SOME Time after I came home, I had the Honour of your Letter of the 1ſt of *April*, and have had the Pleaſure of hearing ſeveral Times ſince from my Lady, of your being in good Health. I am very glad that the Muſick Books prov'd right; and would have wrote again much ſooner; but firſt when I came down, this Place was very throng'd, and every body taken up about the Elections; and ſince that, having met frequently with my Lady, about ſettling that Affair I had Occaſion to talk with you about at *Paris*, I delay'd writing till I cou'd give you ſome Account of that Matter. My Lady is now gone out of Town, who is to tranſmit you the Papers; and I promis'd to write you an Account of my Lady's Generoſity in that Affair, and other Particulars; but the Noiſe we have here juſt now of a Plot, or an Invaſion, makes I dare not do it, for fear of Letters being open'd, neither dare I ſend you the Cypher I promis'd, for the ſame Reaſon; but I think I have now fallen upon an Expedient, which is to cauſe a Gentleman, upon the ſame Side of the Water with yourſelf, ſend you a Copy of that Cypher; and ſo ſoon as I can think that it has come to your Hands, I ſhall write fully to you of all Matters. I ſhew'd both *Clarembault* and *Chevillard*'s Papers to my Lady, who ſeem'd very well pleas'd with them; and ſince, they lay ſome time in the Hands of ſome of our Antiquaries here, to get their Opinion of them, who conſider'd them, and think them the moſt ſingular Documents of that Kind ever they ſaw. Had it not been for this, you would, I believe, had the Copies by this Time; but now they are all actually copying, tho' it's but a tedious Work, not having got a Perſon to do it who underſtands *French*. I ſhould be glad to know if you ever ſee our Friend Mr. *de Binonville* now, and if he has made any new Diſcoveries, or found any more about the Genealogy we uſed to talk about: He was expecting ſomething from the Monks of St. *Euvrout* out of their Chartulary. When you ſee him, I beg you'll make my Compliments to him. I'll certainly write to him; but I'm delaying it till the Papers I brought home with me be well compar'd, that I may know what they are moſt defective in, and what it is proper to ſet him upon in his further Enquiries. We have little or no News here at preſent. The Plot ſeems to be diſappearing again. It's expected the General Aſſembly will riſe this Day.

Memorandum. The reſt of the Letter contains Reflections on the Book publiſh'd in *Oliver Cromwell's* Time, call'd, *The Marrow of modern Divinity*.

Receiv'd

Receiv'd by the Dutch *Mail*, June 15.

Letter to Lord Townſhend.

My Lord,

VOICY Copie d'un piece qui a été envoyé cejourdhuy à *Paris*, Addreſſé à M. *Maule* au Caffé de *Gregoire* dans la Rue de Comedie à *Paris*. Il n'y avoit aucun Mot de Lettre auprés & je ne ſcauray encore dire à Votre Exce de qui cela peut venir, mais je ne doute pas où avec le tems cela ſe decouvrira, et ſans doute avant d'ecrire, celuy, qui l'envoit veut etre aſſuré que la piece eſt venüe en Main: Aparamment que ſur cette Clef on veut etablir une Correſpondance ainſy pour la mieux decouvrir, je donne à penſer à Votre Exce s'il ne conviendra pas mieux de ne prendre aucune Notice à *Paris*, de ce M. *Maule* mais le laiſſer tranquile puiſque le moindre Mouvement que l'on feroit à ſon ſujet luy feroit craindre que ſa Correſpondance eſt decouverte et l'on pourroit perdre l'occaſion d'y voir plus clair.

Je n'ay eu occaſion de rien pendant pluſieurs Poſtes à pouvoir communiquer à Votre Exce, *Walkinſhaw* paroit terriblement effrayé et craint pour ſon Amy d'autant que ny luy ni *Dundas* à *Rotterdam*, n'en recoivent la moindre Nouvelle.

A l'egard de la Clef incluſe Votre Exce remarquera que les Perſonnes de qui ils auront occaſion de nommer le plus, ils y ont deux Noms, Alias Comme par Exemple le Pretendant qu'ils diſent leur Roy il y a deux Noms M. *Davijs* et M. *Floyd*, et ainſy des cy devants Duc D' *Ormond* et Lord *Mar*.

Je ſuis avec toute la ſoumiſſion et reſpect, *&c.* *My Lord*,

Ce 23 Juin 1722. *De V. E &c.*

TRANSLATION.

My Lord,

ENclos'd is the Copy of a Paper which was ſent this Day to *Paris*, directed to Mr. *Maule* at *Gregoires* Coffee-houſe in the Street of the Play-houſe at *Paris*. There was not a Word of a Letter with it, and I can't yet tell you Excellency from whom it may come; but I don't doubt it will be diſcover'd in Time; and very likely the Perſon who ſent it, would be certain that the ſaid Paper came to Hand before he would write: Perhaps that with this Key a Correſpondency is intended to be ſettled, ſo that for the better Diſcovery of it, I leave your Excellency to think, whether it would not be better to take no Notice of this Mr. *Maule* at *Paris*, but to let him go on; ſince the leaſt Motion that ſhould be made upon that Subject, would make him ſuſpect, that his Correſpondency is diſcover'd, whereby the Occaſion of getting a further Light in this Affair, might be loſt.

I had nothing to communicate to your Excellency for ſeveral Poſts. *Walkinſhaw* ſeems terribly frighted, and under Apprehenſion for his Friend; becauſe neither he, nor *Dundas* at *Rotterdam* receive the leaſt Account of him.

As to the inclos'd Cypher, your Excellency will obſerve, that the Perſons whom they ſhall have the moſt Occaſion to name, have two Names; as for Example, the Pretender, whom they call their King, has two Names, *viz.* Mr. *Davis* and Mr. *Floyd*, and likewiſe the late Duke of *Ormond* and Lord *Marr*, *&c.* I am, with all Submiſſion and Reſpect, *&c.*

23d of *June*, 1722.

I. 14.

The King	Mr. *Davijs* / Mr. *Floyd*
The Queen	Mr. *Lambert*
Duke of *Ormond*	Mr. *Clerk* / Mr. *Scot*
Duke of *Berwick*	Mr. *Smith*
Duke of *Mar*	Mr. *Richard* / Mr. *Steven*
General *Dillon*	Mr. *Hanmer*
Viſcount *Bolingbroke*	Mr. *Hall*
Earl Marſhal	Mr. *Warren* / Mr. *Leſley*
Duke of *Perth*	Mr. *Fiſher* / Mr. *Duncan*
Marqueſs of *Seaforth*	Mr. *Digby* / Mr. *Scrimger*
Marq. of *Tullibardin*	Mr. *Brown* / Mr. *Jaffrey*
Earl of *Panmur*	Mr. *Brixton*
Earl of *Linlithgow*	Mr. *Wilkinſon*
Viſcount of *Kilſith*	Mr. *Chriſtie*
Lord *Nairn*	Mr. *Fazer*
Lord *Duffus*	Mr. *Spaldin*
Lord *Strathaltan*	Mr. *Simpſon*
Earl of *Airlie*	Mr. *Taylor*
General *Gordon*	Mr. *Wilſon* / Mr. *Seatoun*

Brigadier

Brigadier *Campbell*	Mr. *Wiſhart*, Mr. *Leith*
Brigadier *Mackintoſh*	Mr. *Anderſon*
Boyn Ogilere	Mr. *Lawſon*
Glengarii	Mr. *Lambert*, Mr. *Smeton*
Sir *Donald Macdonald*	Mr. *Johnſon*
Clauranald	Mr. *Snell*
Kepach	Mr. *Kennedy*
Lochyell	Mr. *Elliot*
Appine	Mr. *Antony*
The *Mac Leans*	Mr. *Grant*
The *Mac Leods*	Mr. *Bertie*
Glenderule	Mr. *Forreſter*, Mr. *Skeen*
Glencoe	Mr. *Dalton*
Glenlyon	Mr. *Piper*
Robert Roy	Mr. *Adam*
Frazerdale	Mr. *Hunter*
The *Grants*	Mr. *Gramond*
Inverii	Mr. *Cumin*
The King's Friends in *Scotland*	Mr. *Black*
The King's Friends in *England*	Mr. *Croſby*
The Clans	Mr. *Brandon*, Mr. *Stratton*
The Highlands	Mr. *Wachop*
Harie Straton	Mr. *Findlaſan*
Sir *Hugh Paterſon*	Mr. *Thomſon*
The King's Army	Mr. *Inglis*
The *Spaniſh* Fleet	Mr. *Graham*
Biſhop of *Edinburgh*	Mr. *Lindſay*
Lord *Balmerino*	Mr. *Barton*
Earl of *Kincardin*	Mr. *Lawder*
Mr. *Harie Maule* of *K.*	Mr. *Lamricks*
John Menzies	Mr. *Norij*
David Fothringham	Mr. *Belchaſs*
Duke of *Brunſwick*	Mr. *Ord*
His Son	Mr. *Darby*
The Princeſs	Mr. *Brewer*
Duke of *Marlborough*	Mr. *Orle*
Earl of *Cadogan*	Mr. *Rigby*
Earl of *Oxford*	Mr. *Symmer*
Earl of *Portmore*	Mr. *Kneller*
Earl of *Kinnoul*	Mr. *Medina*
The *Scotch* Miniſtry	Mr. *Kid*
The *Engliſh* Miniſtry	Mr. *Bertie*
The *German* Miniſtry	Mr. *Ireton*
The Parliament	Mr. *Jeremy*
Houſe of Peers	Mr. *Stewarts*
Houſe of Commons	Mr. *Martin*
Church of *Scotland*	Mr. *Douglaſs*
Church of *England*	Mr. *Baxter*
Diſſenters in *England*	Mr. *Longford*
Kirk of *Scotland*	Mr. *Lewis*
George's Army in *Scot.*	Mr. *Wilkie*
George's Army in *Engl.*	Mr. *Stanian*
Officers	Mr. *Spence*
Soldiers	Mr. *Younger*
The Nobility in *Engl.*	Mr. *Barrij*
The Nobility in *Scotl.*	Mr. *Balfour*
The *Scotch* Mob	Mr. *Bell*
The *Engliſh* Mob	Mr. *Gaſcoign*
Duke of *Argyle*	Mr. *Burnet*
Duke of *Roxbourg*	Mr. *Darling*
Duke of *Montroſs*	Mr. *Hurleij*

Earl of *Ilay*	Mr. *Humphrey*
Earl of *Stair*	Mr. *Whiſton*
Earl of *Rothes*	Mr. *Brady*
Earl of *Hadingtoun*	Mr. *Archbald*
Earl of *Sutherland*	Mr. *Turner*
Beaufort Frazer	Mr. *Web*
Earl *Brodalbin*	Mr. *Lamb*
Lord *Rae*	Mr. *Thomas*
Duke of *Athol*	Mr. *Deens*
Earl of *Aberdeen*	Mr. *Weſt*
Earl of *Finlater*	Mr. *Trevor*
Earl of *Strathmore*	Mr. *Grigy*
Earl of *Southesk*	Mr. *Donaldſon*
Earl of *Northesk*	Mr. *Gourley*
Earl of *Wigtoune*	Mr. *Wright*
Viſcount of *Stormont*	Mr. *Gardin*
Duke of *Gordon*	Mr. *Forbes*
General *Gordon*	Mr. *Grull*
Juſtice *Clerk*	Mr. *Paton*, Mr. *Wats*
General *Carpenter*	Mr. *Liddel*, Mr. *Eſten*
General *Wightman*	Mr. *Granſtan*
The Emperor	Mr. *Mackenzie*
His Miniſter in *Holl.*	Mr. *Sims*
King of *Spain*	Mr. *Anderſon*, Mr. *Gibb*
His Miniſter in *Holl.*	Mr. *Harvey*
Regent of *France*	Mr. *Preſton*
His Miniſter in *Holl.*	Mr. *Holmes*
The Czar of *Muſcovy*	Mr. *Corbet*
His Miniſter in *Holl.*	Mr. *Towaley*
King of *Pruſſia*	Mr. *Saunders*
King of *Poland*	Mr. *Gould*
Cardinal *Alberoni*	Mr. *Parker*, Mr. *Wood*
The States	Mr. *Cornbuerij*
The *Eng.* Miniſt. in *Hol.*	Mr. *Agnew*
The King's Friends in *Holland*	Mr. *Alſton*
His Friends Abroad	Mr. *Hodges*
Germany	Mr. *Henderſon*
France	Mr. *Lenthall*
Spain	Mr. *Skelton*, Mr. *Nimmo*
Italy	Mr. *Germain*
England	Mr. *Gerveſe*
Sweden	Mr. *Urquhart*
Denmark	Mr. *Weddel*
Flanders	Mr. *Litſter*
Holland	Mr. *Cruikſhanks*
Scotland	Mr. *Strachan*
Muſcovy	Mr. *Steel*
Ireland	Mr. *Hoadly*
The *Mediterranean*	Mr. *Swift*
The *Baltick*	Mr. *Kerr*
The *Britiſh* Channel	Mr. *Blair*
The *Iriſh* Channel	Mr. *Beattie*
Firth of *Forth*, *Clyde*, *Murray*	Mr. *Wilks*, Mr. *Petrye*, Mr. *Wilkie*
Rome	Mr. *Fielding*
Paris	Mr. *Blunt*
Madrid	Mr. *Gibſon*
Barcelona	Mr. *Alardice*
Cadix	Mr. *Norman*
Groyn or *Corunna*	Mr. *Bennet*

Vigo

Vigo	Mr. *Ballantin*
Ports in *Spain*	Mr. *Evans*
Bourdeaux	Mr. *Williſan*
St. Malo	Mr. *Richiſan*
Dunkirk	Mr. *Rankin*
Oſtend	Mr. *Neſmeth*
Amſterdam	Mr. *Baillie*
Rotterdam	Mr. *Hector*
Hague	Mr. *Don*
London	Mr. *Creighton*
The *Tower*	Mr. *Gregorii*
York	Mr. *Montaign*
Berwick	Mr. *Pourdon*
Carliſle	Mr. *Bourgale*
Newcaſtle	Mr. *Howard*
The South of *England*	Mr. *Brigs*
The Weſt of *England*	Mr. *Hobs*
The North of *England*	Mr. *Mercer*
The South of *Scotland*	Mr. *Pringle*
The Weſt of *Scotland*	Mr. *Semple*
The North of *Scotland*	Mr. *Talbot*
Edinburgh	Mr. *Nedſon*
The Caſtle	Mr. *Green*
Lothian	Mr. *Cranſburij*
Sea Ports in *Lothian*	Mr. *Garraway*
Fiſe	Mr. *Hornbij*
Sea Ports in *Fiſſe*	Mr. *Hamper*
Perthſhire	Mr. *Reid*
Town of *Perth*	Mr. *Dormer*
Sterlingſhire	Mr. *Blundel*
Town of *Stirling*	Mr. *Rait*
Caſtle of *Stirling*	Mr. *White*
Auguſhire	Mr. *Harveijs*
Dundie	Mr. *Croſs*
Aberbrothock	Mr. *Lawſon*
Montroſe	Mr. *Man*
Mernſhire	Mr. *Pig*
Stonhive	Mr. *Sidley*
Aberdeenſhire	Mr. *Arnot*
Aberdeen Town	Mr. *Graij*
Frazerſburgh	Mr. *Dicker*
Peterhead	Mr. *Rattraii*
Elgin	Mr. *Abercrombije*
Invernesſhire	Mr. *Rawly*
Inverneſs Town	Mr. *Bowles*
Sutherlandſhire	Mr. *Abram*
Caitnesſhire	Mr. *Gideon*
Orkney	Mr. *Walters*
Roſs	Mr. *Renton*
Iſle of *Sky*	Mr. *Blyth*
Iſle of *Uyſt*	Mr. *Turnbull*
Iſle of *Mull*	Mr. *Potter*
Lochaber	Mr. *Trail*
Inverlochy	Mr. *Yeaman*
Badenoch	Mr. *Short*
Strathſpeij	Mr. *Tullock*
Argyleſhire	Mr. *Fairly*
Gottenburg	Mr. *Herbert*
Hamburg	Mr. *Hill*
Peterſburg	Mr. *Lains*
An Invaſion	Mr. *Campbell*
One thouſand Foot	5 Pieces of Claret
One hundred Horſe	2 Pieces of White Wine
1000 Fuzees	1 Barrel of Olives
1000 broad Swords	1 Barrel of Figs
1000 *lb.* of Powder	1 Anker of Brandy

1000 Flints	1 Barrel of Anchovies
Tranſports	Bottles of Rheniſh
Ships	Cheſts of Florence
One Man of War	2 Pieces of fine Cloth
1000 *l.* Sterling	1 Barrel of Butter
One Month	One Year
One Day	One Month
All Neceſſaries	Mr. *Plumtree*
Ammunition	Strong Beer
Proviſions	Cyder
War	Mr. *Maubraij*
Peace	Mr. *Young*
A Treaty	Mr. *Aſhburnham*
Reſtoration	Mr. *Barrot*
A Manifeſto	Mr. *John*
A Spy	Mr. *Roger*
Earl of *Dundonald*	Mr. *Jaffreys*
Earl of *Dunmor*	Mr. *Monot*
Colonel *Middleton*	*O Donelet*
Francis Kennedy	Mr. *Jamiſon*
Barrowfield	*O Connel*
Earl of *Winton*	Mr. *Dormerton*
The Squadron	Mr. *Hamilton*
Argylians	*Hugonots*
The Pope	Mr. *Lyon*
Boyſeck	Mr. *Dempſter*
Mr. *Ch. Flemming*	Mr. *Ramſay*
Lord *Garlays*	Mr. *Ouchterlonij*
Mr. *Ja. Keith*	Mr. *Pool*
Mr. *Th. Lindſay*	Mr. *Stone*
Earl of *Dalhouſie*	Mr. *Loch*
Earl of *Nithſdale*	Mr. *Ruddiman*
Earl of *Carnwath*	Mr. *Horſeburgh*
Father *Innes*	Mr. *Rymer*
Mr. *Tho. Innes*	Mr. *Pryn*
Father *Carnagie*	Mr. *Rob*
Mr. *Roſs*, the Prieſt	Mr. *Selford*
Mr. *Dav. Drummond*	Mr. *Boy*
William Gordon, Banker *a Paris*	Mr. *Gilleſpie*
Char. Kinnaird	Mr. *Moneur*
Mr. *Lockhart*	Mr. *Swinton*
Earl of *Middleton*	Mr. *Riddoch*
Mr. *Irnegham*	Mr. *Primroſe*
Marq. *de Maiignii*	Mr. *Birnie*
David Erskin	Mr. *Pilmour*
Major *Lambie*	Mr. *Glaſs*
James Maule	Mr. *Elphinſton*
Counteſs of *Wigtoun*	Mr. *Herriot*
Counteſs of *Panmur*	Mr. *Anſtruther*
Lady *Orbeſton*	Mr. *Carſtairs*
Lord *Grange*	Mr. *Weir*
Lord *Dun*	Mr. *Auchenleck*
William Drummond	Mr. *Shaw*
John Drummond	Mr. *Cant*
William Dundaſs	Mr. *Shairp*
Hugh Wallace	Mr. *Stevenſon*
Robert Boyd	Mr. *Ford*
Mr. *James Murray*	Mr. *Oats*
Colonel *Hay*	Mr. *Durman*
Sir *William Windham*	Mr. *Pelham*
Mr. *Will. Frazer Saltons* Broker	Mr. *Dick*

A Letter

A Letter from —— *to Mr.* Collins, *to the Care of Mr.* Waters, *Banker at* Paris.

SIR,

May 29, 1722.

THIS is to acquaint you, that your laſt Parcel of Goods with your Letter of Advice, dated the 26th Inſtant, came ſafe to Hand, and that I'm reſolv'd per firſt ſure Opportunity, to tranſmit his Share to Mr. *Wallace*: But by Reaſon of the Alarm, the Government has taken from ſome Diſcoveries, made of the malicious Deſigns of our Enemies, I don't at all think it expedient to continue our Correſpondence as formerly, leaſt the writing on private Buſineſs ſhould be miſconſtrued, meddling in Affairs of higher Conſequence, which wou'd be moſt inconvenient for us both; mean while I hope both my Letters bearing Date the 8th and 10th Inſtant, came ſafe to your Hands, and ſhall not doubt but you'll take Care to negociate with Meſſieurs *Malcolm* and *Baxter*, the Buſineſs I recommended in both; when you incline to acquaint me of the Succeſs of that Affair, or any other Thing of Conſequence, let your Commands come by the Canal of Mr. *Kid*, to the Care of my Friend *Grierſon*. As to the Parcel of Lace Mr. *Wallace* was ſo anxious to have, they muſt either be delay'd, or be ſent by the ſame Canal of Mr. *Kids*, with ſpecial Injunctions to ſend them by Sea, with ſome truſty Hand, directly for this Place, to the Care of Mr. *Grierſon*.

As for News, this Place affords very little, only that one Mr. *William Erſkine*, was laſt Week ſent under an Eſcorte of Dragoons to *England*, being charg'd with treaſonable Practices; but none of his Papers were ſeiz'd; *Baillie Gordone* is under Bail, for remitting Money by the aforemention'd Gentleman's Orders. And one Mr. *William Neilſon*, Son to the Provoſt of that Name, has been examin'd by my Lord *Juſtice Clerk*, on Account of foreign Letters directed to his Care, and that Gentleman is ſaid ſince to abſcond: So that, they ſeem happieſt at preſent, who have leaſt foreign Correſpondence.

Adieu.

I. 16.

Robert Brown *to* Harry Blair *at* Edenburgh, $\frac{1}{12}$ June, 1722. *With the* French *Mail.* *Receiv'd* June 5, 1722.

To Mr. Harry Blair, *Writer, at his Houſe in* Allan's-Cloſe, *oppoſite to the Croſs*, Edenburgh.

Paris, June 12, 1722.

My dear Couſin,

YOUR Friend Mr. *Fleeming* was with me this Morning, and deſires you may be ſo good as to acquaint Mr. *Houſton*, that he laid his Affair before Mr. *Baxter*, and at the ſame Time, was reſolv'd with his beſt Arguments to preſs it, if the Cauſe requir'd it, but found Mr. *Baxter* ſo very frank to do any Thing in his Power, to promote Mr. *Houſton's* Credit, that he was ſav'd that Trouble. Mr. *Baxter* deſir'd he might make his Compliments to Mr. *Houſton*, and to aſſure him of any Service he could do him at all Times, and as he was ſatisfy'd, the Letter of Credit he now deſir'd, might come to advance his Intereſt, he approv'd of it, and very willingly went into it, and would ſoon write to his Couſin and Partner Mr. *Ferguſon*, whoſe Compliance and Concurrence he had not Doubt about, ſo that Mr. *Houſton* might depend upon it. You'll I hope forgive my troubling you, ſooner indeed than I deſign'd to have done it; but Mr. *Fleeming* was apprehenſive his Couſin Mr. *Houſtone*, would be anxious about his Letter of Credit, and prevail'd upon me. Meind me kindly to all our Friends, and if there is any Thing I can ſerve you here, pray put your Commands upon.

Dear Couſin,
Your moſt faithful, &c.
Robert Brown.

By the Hand writing, this comes from the Perſon directed to at *Paris*, by the Name of *Collins*.

I. 17.

A Letter from Robert Brown *to Mr.* Harry Blair, *Writer, at his Houſe in* Allan's-Cloſe, *oppoſite to the Croſs,* Edinburgh.

My dear Couſin,

MY laſt, dated *May* 28th, will ſatisfy you and Mr. *Wallace* as to his Papers and Bills, and both Mr. *Baxter*, and *Falconer* are to ſend them to you, the very firſt ſure Occaſion: Therefore if Mr. *Wallace* is with you, when this comes to your Hands; it's beſt in my Opinion, he ſhould leave out that Demand from Mr. *Malcom*, ſeeing they are to be ſent without his deſiring it of them: For his preſſing it in his Letter to *Malcom*, would look like a Sort of Diffidence, and he may now ſee no manner of Occaſion left for it, ſo it's better that Letter ſhould be without any reſerve; but if he is gone, let it ſtand as it is, and ſend it, and the others no ſooner then your deſir'd.

As to what you have writ to me, concerning your Friend Mr. *Houſton*, pray tell him that his old Acquaintance Mr. *Fleeming* was with me, when his Letter came to my Hand laſt Poſt; and that I communicate his Requeſt from Mr. *Ferguſon* to him. To tell you Truth, Mr. *Fleeming* was ſo frank and ſo glad of an Opportunity to ſerve Mr. *Houſton*, that he is determin'd to go through with it, and employ his whole Intereſt with Mr. *Baxter*, to have that Affair ſoon done. He appears very confident, in being able to procure Mr. *Baxter's* Friendſhip in the whole Affair; he is to diſcourſe him in a few Days upon it, and ſo ſoon as I ſee him after, I will write to you again, this is all I have Time to ſay to you now, being interrupted. *Adieu.*

I am, my dear Couſin,

Your faithful Servant,

Robert Browne.

Pray pardon the Faults of this ſcrawl Writ in haſte. Make my kind Compliments to the old *Poli. d.* tell him I expect to hear oftner from him, till he is again in his Seraglio at Home.

As to Mr. *Clark*, it's no great Matter, he may come to be wiſer as he grows older. Should it happen otherways, the worſe is his own, and I ſhall be ſorry at it.

Adieu again.

In Anſwer to *Walter Graham's* Letter to *Collins*, *May* 4, 1722.

I. 18.

An anonymous Letter to Mr. Peter Smyth.

A Monſ. Peter Smith, *Gentil homme Ecoſſois, chez Monſ.* Gordon, *& la Compagnie à* Boulogne *en* Picardie.

Liveníde, June 11, 1722.

Dear Peter,

I Had the Pleaſure of receiving yours of the 27th Date, ſome few Days ago. The Merchants here ſeem very much perplex'd at preſent about their Trade, for none of them knows, whether the Wines they expected are to come this Seaſon or not, and whether their Wines are to be enter'd according to the *French* or *Spaniſh* Duty: The Money that was to be rais'd for Payment of theſe Wines, will be ready in a ſhort Time, and remitted over, provided there can be any ſatisfactory Accounts given them of their Commodities. I long much to hear from Mr. *Demartin*, to whom, pray make my ſubmiſſive Compliments; as for my Cloaths, I have not heard one Syllable from *La font*; but pray write to him, to make him make all Haſte poſſible with them. As for the Boy you mention'd, that ſerv'd Mr. *Johnſton*, he is turn'd the idleſt, drunkeſt Thing alive, ſo pray ſee to get me a Footman from *Paris*. I receiv'd the Shoes you ſent me, but there are a great many Pairs of them too little, ſo pray write to my Shoemaker, to cauſe him make a dozen Pair more, and ſend them by the firſt Opportunity. It's with Pleaſure I can tell you, your Brother goes

in

in very frankly to raiſe his Quotion for the Wines, and will go as great a Length, as you, or I can deſire him. *Barow* is here, who remembers you very kindly.

Dear *Peter* there needs not half the Thanks as you ſeem to expreſs in yours; all I ſhall ſay, is, that People that have Friends, and do not Support them, deſerve to want them; and the more my Friends depend, and truſt me, the greater Compliments they pay me. I ever am,

Your faithful Friend.

Yours, before it came to my Hands, was open'd. No doubt you have heard 'ere now of *Willie Ereskine* being carry'd to *London*.

I. 19. is the Original.

I. 20.

A Letter from George Mackenzie *to* Kenneth Mackenzie, $\frac{11}{22}$. *June* 1722.

For Kenneth Mackenzie, *Eſq;* Paris, 2*d of* June, N. S. 17[illegible]

My Dear Sir,

IN Conſequence of what I took the Freedom to beg of the Marqueſs of *Seafort*, and that you are ſo kind to offer me your good Offices in, I muſt entreat you'll pleaſe take the very firſt Opportunity to ſecure me the Election for an *Engliſh* Corporation; and on the Condition my Seat may be made ſure in Parliament, I do hereby oblige myſelf, that I ſhall forthwith pay to thoſe you'll employ in that Affair, or to your Order, the Sum of any Value under five hundred Pounds *Engliſh*, without any Receipt, or Queſtions to be asked.

I well know how ſafe any Perſon's Purſe is in your Hand, and much more that of mine, who do willingly not confine you to any Sum, that I can conveniently advance. You are, Sir, I hope perſwaded that Profit is not the Motive makes me deſirous of having a Stall in that Houſe, at this Time of the Day. I have enough ſhewn all our Miniſters of both Sides, that I never had either Fortune or Bread itſelf ſo dear to me, as not the Intereſt only, but even the Honour of our Country; and beſides, what I have here above-mentioned is for the Pains, for ſuch muſt bring about that Matter, I would never have any other Inducement uſed to prevail with my Conſtituents, than that I conſent this may be publiſh'd as an open brand on me, when they'll find that any Meaſures of Court, or ſuch like Conſiderations, may make me ſwerve from theſe Engagements. I doubt not but that you will be my Guarantee for.

I will hope for your beſt Diligence in this Affair, and that you will favour me with your Anſwer, according as you may have any Hope of Succeſs.

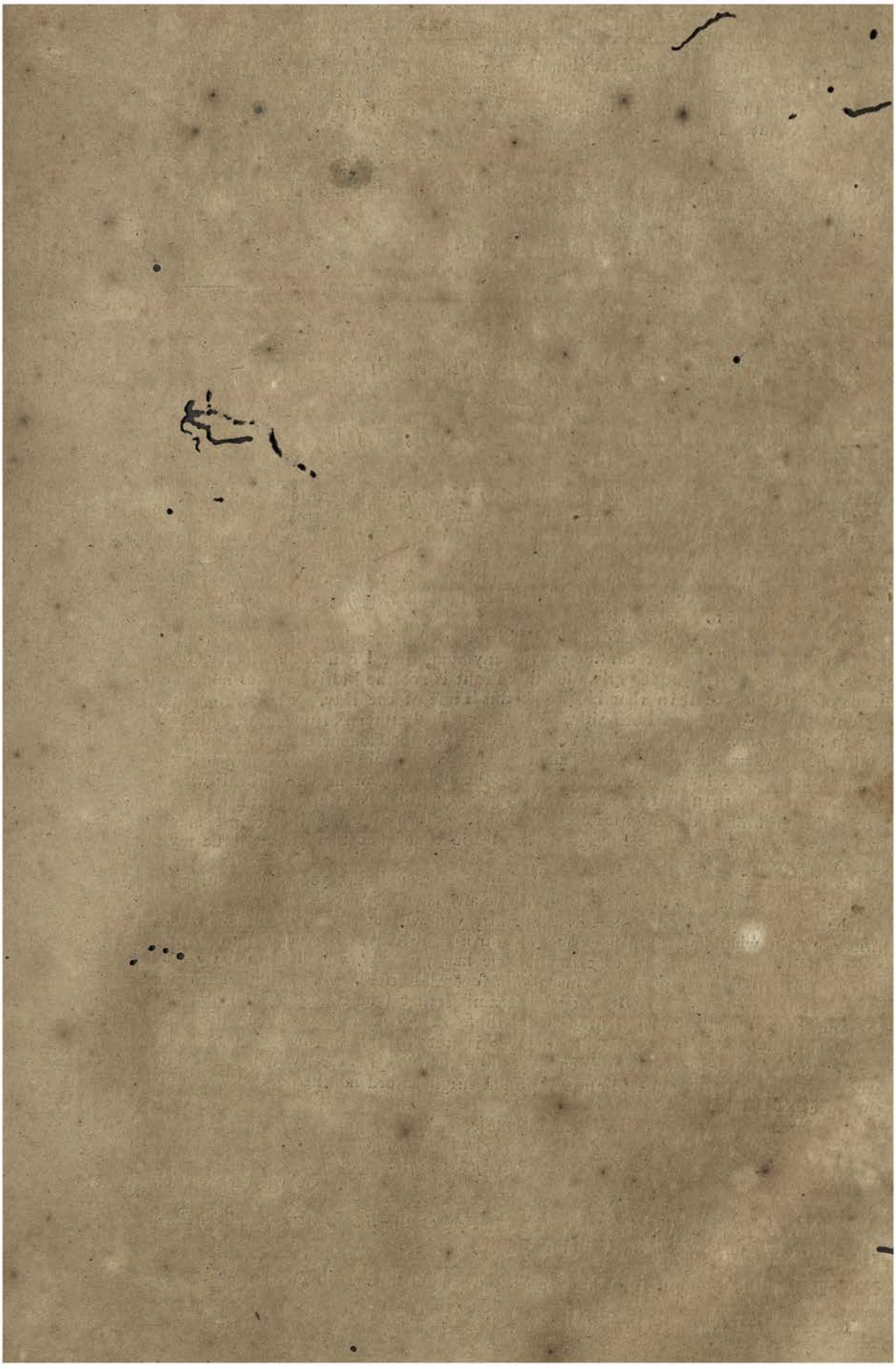
I have not as yet heard from Mr. *Urquehart*, you will beſt learn of him why he miſcarry'd in what he would have me rely on ſo poſitively. I have ſtill to thank you for friendly Aſſiſtance in that Affair. He has my 500 *l.* which I am daily expecting he will refund in the Terms of his ſeveral Letters. As to the Event that has happen'd, perhaps you will not take it amiſs, that I here deſire you'll obſerve to him, that though I was willing to go thoſe Lengths on the Sake of his Honour, and for a Publick Concern, that yet is not ſo eaſy for me, both to miſs of my End, and find my Hands empty'd of 15[m] *libs.* I heartily wiſh that you would favour me with as uſeful an Occaſion as might afford me the next Satisfaction to aſſure you I am,

My dear Sir,
Your moſt humble and
Moſt obedient Servant,
George Mackenzie.

For Mr. *Mackenzie*, at Mr. *Hudleſton*'s, Mercer, at the *Blackamoor*'s-Head in *Bedford-ſtreet*, by *Covent-Garden*. London.

Mr. *Mackenzie* being gone into the Country, was thus farther directed to him.

To Mr. *Mackenzie* at *Wooton* in *Warwickſhire*, by *Stratford* upon *Avon-bagg*.



K.

PAPERS

RELATING TO

IRELAND.

A

K.

List of Papers relating to Ireland.

1. ATteſted Extracts of *Glaſcock's* Letters, *July* 3, 1722, the Originals of which were ſent to the Lords Juſtices of *Ireland*, 29 *July*, 1722. Page 1

2. Examination of *John Burke*, *July* 29. ibid.

3. Examination of *Francis Glaſcock* before Lord Chief Juſtice *Whitſhed*, *Auguſt* 7. p. 2

EXTRACTS *of* Francis Glaſcock's *Letters, the Originals ſent to the Lords Juſtices of* Ireland.

A Monſieur
Monſieur Glaſcoc, 3d *July*, 1722.

I Do conſider that you have my dear *Chr.* ſome Reaſons why you do not write to me, otherwiſe I would imagine that I have diſobliged you, and that I hope never will be in my Power. I am perſuaded that there is at preſent a Damp on Trade, and that your Goods are of little Value at this time, otherwiſe we ſhould have more of them. All we can do, is to wiſh for a better Market. Our Goods here of all Sorts are at a very low Ebb, and muſt be ſo till there is a Demand abroad.

A Monſieur
Monſieur Cha. Patſon. 3d *July*, 172[illegible].

I Had my dear Sir *Cha.* ſome Time paſt with the greateſt Pleaſure poſſible, and [illegible] the ſame Time had the Account of your Diſaſter and Recovery.------
As to my Duty, I hope you will repreſent it as inſignificant, but as it [illegible]s, it is and always was and will be inviolable, and wiſh my ſeven Sons may depart this Life ſooner than loſe that. We live in hope, God ſend us Comfort and preſerve you all.--- Makes Compliments------To Sir *Jo. Miſſet* and Lady-----To Ld. *Fingall*----I am juſt going to the County of *Kildare* where I ſhall not forget you, and my Brother *Whyte* is High Sheriff, but one according to your own Heart. My Direction to the two Youths have reformed them intirely, and we often do remember you and Friends.

To Mr. James Wogan *at Dr.* Moore's
at the College of Navarr
at Paris. *Dublin*, 3 *July*, 1722.

— I Have named you a Commiſſion to join in Examination in this Affair (*Horan's* Law-ſuit) along with *Edm. Kelley*-----I leave the incloſed Letters open for your Peruſal, that thereby you may ſee the State of Health we are in.———

I do hereby certify, That theſe are true Extracts of the Letters to which they refer, which Letters were ſent to the Lords Juſtices of *Ireland.*

Ch. Delafaye.

K. 2.

The Examination of John Burke *of the City of* Dublin, *Gent:*

WHO ſays, that he received the Pacquet now ſhewn him, directed to Mr. *James Wogan* at Dr. *Moore*'s at the College of *Navarre* at *Paris*, from the Hands of Mr. *James Horan* his Client, or Mr. *Francis Glaſcock* a Sollicitor in *Dublin*, he knows not which; that the ſaid Pacquet ſeem'd bulky, and to contain incloſed Letters, but being delivered to him ſealed, he was a perfect Stranger to the Contents of it; and is ſo ſtill except to the Cover directed as above, and the Outſide of ſome of the incloſed Letters which he hath now had an Opportunity of ſeeing.

Capt. & Jurat 29° die *John Burke.*
Julii 1722. *Coram me*
Ch. Delafaye.

Glaſcock lives on *Arran Key* in *Dublin.*

The

Hibernia ff. *The Examination of* Francis Glaſcock *of the City of* Dublin, *Gent. taken before the Right Honourable Lord Chief Juſtice* Whitſhed.

WHO being duly examined ſaith, That the Letter directed to Monſieur *Cha. Patſon* is this Examinant's Hand-writing, and that the Perſon to whom the ſaid Letter is directed goes and always went by the Name of *Charles Patſon*, and by no other Name to this Examinant's Knowledge. This Examinant further ſaith, That the Letter now produced to Examinant directed to Examinant, and on which he has put his Mark *F. G.* Number (1) has been, as Examinant believes, in Examinant's Cuſtody, but Examinant doth not know the Hand-writing of the ſame, nor from whence, nor from whom the ſame came. Examinant being ask'd whether he is a Proteſtant, and how long he hath been ſo, ſaith he is a Proteſtant and hath been ſo about 14 or 15 Years. This Examinant further ſaith, that the Letters now produced to him, to which he hath affixed his Mark----number'd (2) (3) (4) are the Hand-writing of *Charles Wogan*; and further ſaith, that the Letter directed to Monſieur *Glaſcoc* (N° 5) to which this Examinant hath put his Mark, and the Letter directed to Monſieur *Cha. Patſon* (N° 6) to which this Examinant hath put his Mark, are his this Examinant's proper Hand-writing; and that the Letter now produced to him (N° 7) ſign'd *Char. Wogan*, to which he hath affix'd his Mark, is the Hand-writing as Examinant believes of the ſaid *Charles Wogan*; being ſhewed the Poſtſcript of a Letter (N° 8) to which he hath put his Mark, and being ask'd who are meant by *Nick* and Sir *Charles* therein mentioned, ſaith at firſt that he doth not know, but afterwards ſaith that he believes it is *Nicholas Wogan* and Sir *Charles Wogan* who are meant thereby; being ask'd what Poſts the ſaid Perſons are in, ſaith that he believes *Nicholas Wogan* is a Captain in the Duke of *Berwick*'s Regiment, and the ſaid Sir *Charles Wogan* is a Lieutenant-Colonel in the *Spaniſh* Service; being deſired to read over the above Examination and put his Name to it, ſaith, he hopes he won't be deſired to put his Name to any Thing that will hurt him; being ask'd from whom the Letter to him directed (N° 9) mark'd by him is come, ſaith, it is from his Brother *Chriſtopher Glaſcoc*; being ask'd what is meant by a Paragraph therein in theſe Words, *viz.* 'This is a Seaſon in which all Trade is a little deadiſh, 'and Matters are ſo embroil'd, that it is not eaſy to extricate the right Courſe,' ſaith, what he underſtands thereby is his Brother's Dealings in the *Miſſiſſipi* Company, and nothing elſe; being ſhewn a Letter dated the 3d of *July* 1722, ſigned *F. G.* ſaith it is his own Hand-writing, and being ask'd what he meant by the Paragraph therein in the Words following, 'I am perſuaded that there is at preſent a Damp on Trade, and that 'your Goods are of little Value at this Time, otherwiſe we ſhould have more of them, 'all we can do, is to wiſh for a better Market. Our Goods, here of all ſorts, are at a 'very low Ebb, and muſt be ſo till there is a Demand from abroad,' ſaith, the plain Senſe and Meaning is ſet forth in the ſaid Paragraph; being ask'd what Goods that come from *France* are now at a low Value, ſaith, he cannot at preſent recollect; being ask'd what Goods from *France* he expects will come to a better Market, ſaith, that there are a great many Goods that may come to a better Market, which he can't at preſent call to Mind; being ask'd who Sir *Charles Patſon* is to whom his Letter (N° 6) is directed, ſaith, he hath heard he is a Prieſt but can't tell whether he is or no, but is ſure Sir *Charles Wogan* is not meant thereby; being ask'd to whom the Lands of *Tenaud* in the County of *Wicklow* do belong, ſaith, they do belong to Major *Allen* of St. *Woolſton*'s, and that Sir *Charles Patſon* was a Truſtee for one *Hacket*; being ask'd what he meant by a Paragraph in the ſaid Letter (N° 6) in the following Words, 'As to my 'Duty, I hope you will repreſent it as inſignificant, but as it is, it is and always was 'and will be inviolable, and wiſh my ſeven Sons may depart this Life ſooner than loſe that. 'We live in Hope, God ſend us Comfort and preſerve you all;' ſaith, that there is an old Gentleman in *Paris* one Mr. *Moore*, by whom he expects to be left conſiderably, and that the ſaid *Moore* promiſed to do well for Examinant and his Children; being ask'd to whom he delivered the ſaid Letter (N° 6) whether he directed it under a Cover to any Perſon, and to whom, or the Letter mark'd (N° 5) ſaith, he doth not know. Being ask'd if the laſt two Letters (N° 5 and 6) dated the 3d of *July*, were not incloſed in a Letter from Examinant dated the 3d of *July*, directed to Mr. *James Wogan* at Dr. *Moore*'s in the College of *Navarre*, *Paris*, ſaith, he can't tell.

Capt. Coram me 7° *Auguſti* 1722.

Wm. Whitſhed.

FINIS.

BY Vertue of an Order of the HOUSE *of* LORDS of the 24th of *April* Inſtant, I do appoint *Edmund Parker* and *Jacob Tonſon* to Print the *Report*, *Appendix*, and other *Proceedings* hereunto annexed; and that no other Perſon do preſume to Print the ſame.

MACCLESFIELD *C.*

A

REPORT

FROM THE

LORDS COMMITTEES

TO WHOM THE

REPORT and ORIGINAL PAPERS

Delivered by the

HOUSE of COMMONS *at ſeveral Conferences were Referred,*

And who were Impowered by the

HOUSE of LORDS

TO EXAMINE

Chriſtopher Layer, and ſuch other Perſons as they from time to time ſhould think proper; and to whom ſeveral INFORMATIONS and PAPERS laid before the Houſe by His MAJESTY's COMMAND relating to the Conſpiracy mentioned in His MAJESTY's SPEECH at the Opening of this Parliament, to be carrying on againſt his Perſon and Government, were referred.

Which REPORT was made by

HIS GRACE the DUKE of *DORSET*

On Tueſday *the Twenty Third of* April, 1723.

Together with the APPENDIX, containing Examinations, Letters and other Papers referred to in the ſaid Report.

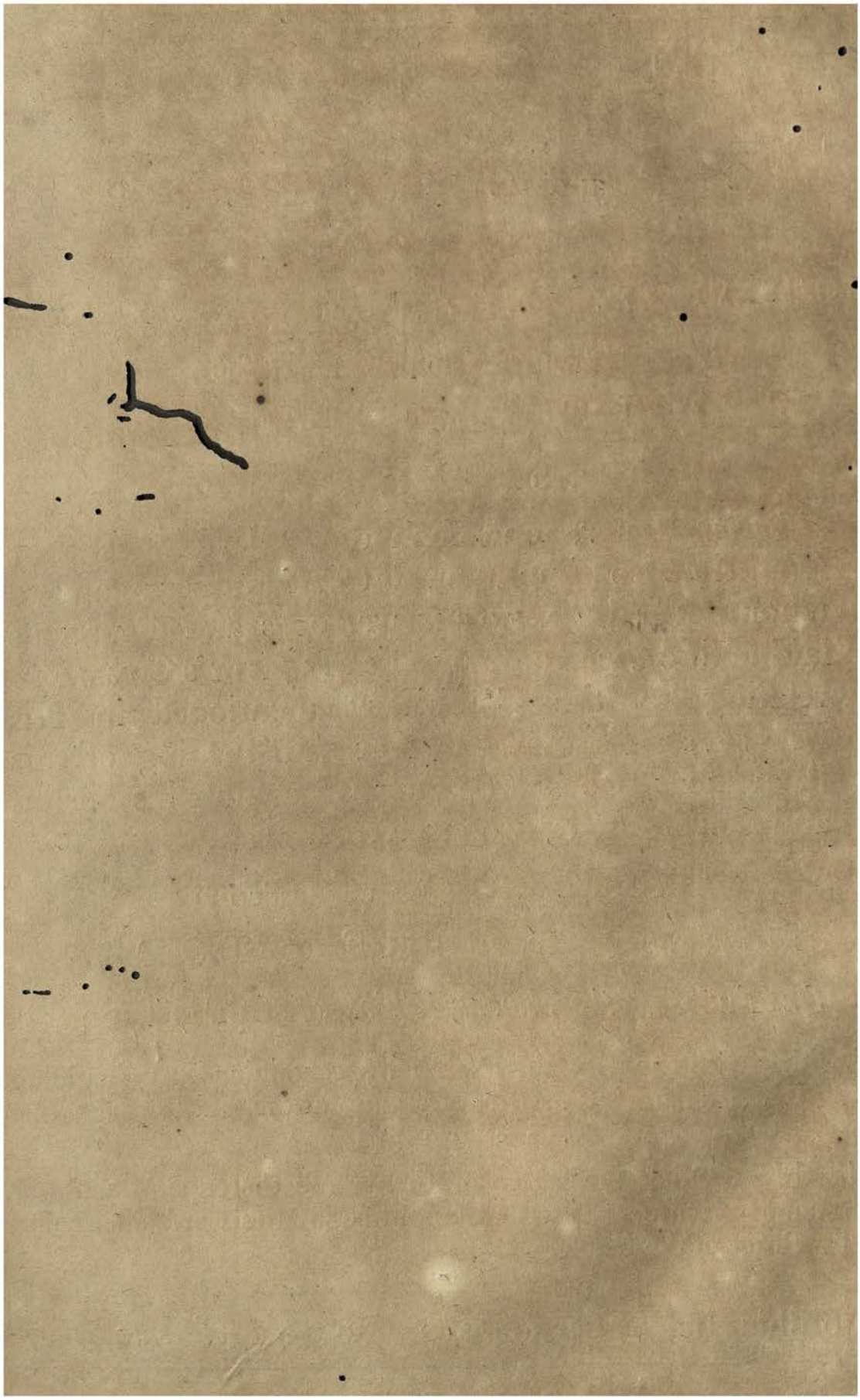
AS ALSO

The RESOLUTION of the Houſe thereupon, and the Thanks given to the Lords Committees by the Lord Chancellor by Order of the Houſe.

Publiſh'd by Order of the HOUSE *of* LORDS.

LONDON:

Printed for *Edmund Parker* in *Lombard-Street*, and *Jacob Tonſon* in the *Strand*. MDCCXXIII.



Die Mercurii 24° *Aprilis* 1723.

THE Houſe (according to Order) took into Conſideration the Report from the Lords Committees, to whom the Report and Original Papers delivered by the Houſe of Commons at ſeveral Conferences, were referred; and who were Impowered by this Houſe to Examine *Chriſtopher Layer* and ſuch other Perſons as they from time to time ſhould think proper: And the ſaid Report being read, It is Reſolved by the Lords Spiritual and Temporal in Parliament Aſſembled, That this Houſe is fully ſatisfyed and convinced, That a Deteſtable and Wicked Conſpiracy has been formed and carried on, for folliciting a Foreign Force to Invade theſe Kingdoms, for Raiſing a Rebellion, and inciting Inſurrections in *London*, and divers other Parts of *Great Britain*, and even for laying Violent Hands on the Sacred Perſon of His Majeſty, and on His Royal Highneſs the Prince of *Wales*, in Order to Deſtroy Our Religion and Happy Conſtitution, by placing a Popiſh Pretender on the Throne.

Ordered, by the Lords Spiritual and Temporal in Parliament Aſſembled, That the Thanks of this Houſe be given, by the Lord Chancellor, to the ſaid Lords Committees, for their having Diſcharged the Truſt in them Repoſed, with great Exactneſs, Care, Fidelity, and Candor. Thereupon,

The Lord Chancellor addreſſing himſelf to the Lords of the ſaid Committee, (*viz.* Duke of *Montroſe*, Duke of *Dorſet*, Earl of *Lincoln*, Earl of *Scarborough*, Earl of *Iſlay*, Lord Viſcount *Lonſdale*, Lord Viſcount *Torrington*, Lord Biſhop of *Sarum*, Lord Biſhop of *Lincoln*) gave them the Thanks of the Houſe in the following Words:

My Lords who were of the Committee,

I Am commanded by the Houſe to give your Lordſhips the Thanks of this Houſe, for your having diſcharged the Truſt repoſed in you, with great Exactneſs, Care, Fidelity, and Candour.

My Lords,

The Truſt was as great as ever was repoſed by this Houſe in any of its Members. The Subject Matter of your Inquiry, a Conſpiracy the moſt Dangerous as well as Deteſtable, big with Miſchiefs of all kinds, and deſtructive of every thing that is valuable amongſt us; carried on and managed in a new deviſed Method, with the utmoſt Cunning as well as Wickedneſs, and covered with all the Diſguiſes the moſt artful Dexterity could contrive: and which therefore required the greateſt Penetration and Skill to lay open. And the Papers, ſome of them of ſuch a Nature, that it was thought fit to refer them to your Lordſhips, lock'd up as they were, without reading them in the Houſe.

My Lords,

Your Lordſhips have fully anſwer'd the Expectations the Houſe entertained, when they pitched upon you for this Truſt.

Your Application in going thro' ſo many Papers of affected and ſtudied Obſcurity; your Candour and Exactneſs in Examining the Perſons concern'd, or any way capable of giving any Satisfaction, and in repreſenting what

they

they ſaid; the Accuracy and Judgment of your Remarks; the Light you have ſo happily given to ſeveral Paſſages in the Report of the Committee of the Commons, which, tho' in themſelves juſt, were yet liable to Cavils, by ſuch as were loath to have the Truth found out, give, I dare ſay, a ſenſible Pleaſure to every Lord here, that has heard your Report read, and finds himſelf thereby enabled to form a Judgment with ſo entire Satisfaction to himſelf, concerning this abominable Work of Darkneſs, which the Actors have endeavoured to ſurround with impenetrable Obſcurity.

This noble Pleaſure, of ſeeing the Truth, notwithſtanding ſo many Contrivances to hide it, and of being thereby enabled to come to right Reſolutions in a Matter of ſuch Importance, has very naturally and agreeably broke out into ſo unanimous a Reſolution of returning the Thanks of this Houſe to your Lordſhips, to whom they ſo much owe it. And in Obedience to their Commands, I do, with particular Pleaſure, give your Lordſhips the Thanks of this Houſe, for your having diſcharged the Truſt in your Lordſhips repoſed, with great Exactneſs, Care, Fidelity, and Candour.

Ordered,

Ordered, by the Lords Spiritual and Temporal in Parliament Aſſembled, that the ſaid Report from the Committee, and the Appendix thereunto; together with the Reſolution of this Houſe upon Conſideration of the ſaid Report, and the Order for giving the Thanks of this Houſe to the ſaid Lords Committees, and the Thanks given by the Lord Chancellor to their Lordſhips purſuant to the ſaid Order, be printed and publiſhed; and that the Lord Chancellor do give Order for forthwith Printing and Publiſhing the ſame, and that no Perſon do preſume to print the ſame but ſuch as ſhall be appointed by his Lordſhip.

WM. COWPER,
Cler' Parliamentor'

A

REPORT

FROM THE

Lords Committees, to whom the Report and Original Papers delivered by the Houſe of Commons at ſeveral Conferences, were referred; and who were impowered by the Houſe of Lords to examine Chriſtopher Layer, *&c.*

[N. B. *The Numbers with Letters before them refer to the Appendix to the Report of the Committee of the Houſe of Commons, and thoſe without Letters refer to the Appendix to this Report.*]

THE Committee to whom the Report and Original Papers relating to the Conſpiracy, delivered by the Houſe of Commons at ſeveral Conferences, were referred; and who were impowered by your Lordſhips to examine *Chriſtopher Layer*, and ſuch other Perſons as they from time to time ſhould think proper; having carefully compared the ſaid Report with the Original Papers referred to them, and having examined ſeveral Perſons in relation to the Treaſonable Practices and Correſpondences therein ſet forth, are fully ſatisfied and convinced, That a deteſtable and wicked Conſpiracy has been formed and carried on for ſoliciting a Foreign Force to invade theſe Kingdoms, for raiſing a Rebellion and inciting Inſurrections in *London*, and divers other Parts of *Great Britain*, and even for laying violent Hands on the Sacred Perſon of His Majeſty, and on His Royal Highneſs the Prince of *Wales*, in order to deſtroy our Religion and Conſtitution, by placing a Popiſh Pretender on the Throne.

And the Lords Committees think themſelves obliged in Juſtice to obſerve, that the extraordinary Vigilance and Application which has been ſhewn by the Houſe of Commons in detecting this Scene of Iniquity, and laying its moſt hidden Springs in ſo full and clear a Light, as it has greatly contributed to the Publick Safety, by opening the Eyes, and awakening the juſt Reſentment of an injur'd Nation; ſo it cannot fail to excite a proportionable Zeal and Emulation in your Lordſhips, for concurring with that Houſe in the no leſs neceſſary Work of bringing the Authors of theſe wicked Deſigns to ſuch exemplary Puniſhment as may be a laſting Admonition to Poſterity, that Artifice and Diſguiſe can no more leſſen the Danger, than mitigate the Guilt of Treaſon, and that they act under a fatal Deluſion, who hope to abuſe the Lenity of our Laws to the Ruin of our Conſtitution.

The Lords Committees think it a ſtrong Confirmation of the Truth and Exactneſs of the ſaid Report, that ſeveral material Obſervations which are there advanced as grounded on probable Conjectures only, have ſince been amply verified and ſupported by freſh Diſcoveries ariſing from the Papers lately referr'd to them by your Lordſhips; which Papers are contain'd in an * Appendix annex'd to this Report.

* Number'd from 1 to 48 Inclusive.

The Intelligence ſent by Colonel *Stanhope*, and Sir *Anthony Weſtcombe*, in Relation to the Pretender's Ships under *Morgan*, as well as the Explication given by the Committee of the Houſe of Commons to ſeveral of the fictitious Names in the intercepted Correſpondence, is very much illuſtrated and confirmed by Papers ſeized on Board the *Revolution*, and by the Examinations of ſome of the Priſoners belonging to that Ship.

† 17--48. It appears by † thoſe Papers and Examinations, that *Morgan*, who went by the Name of *Walton*, and *Gallwey* (an *Iriſh* Roman Catholick) who went by the Name of *Gardiner*, with others acting under their Direction, have for ſeveral Years paſt been employ'd in fitting out Ships under *Engliſh* Colours, which were ready on all Occaſions to attend the Motions of the ‡ 19, 20, 21, 25. Pretender, who in ‡ ſeveral of the Letters is ſtiled *their King*, and *their Royal Maſter*. That the Money for theſe Ships was ſupply'd § partly by § 23, 29, 31. Perſons in *England*, || partly by *Waters* the Banker at *Paris*, and * partly the late Duke of *Ormonde*; that one of theſe Ships, in the Year 1719, † was ſent || 17, 21, 22. by *Morgan* to the *Groyne*, with an Expreſs to fetch the late Duke of *Ormonde* to *England*; at which time it appears, ‡ that *Morgan* and *Gallwey* * 17. were promis'd a Supply of Fifty Thouſand Pounds from Friends in *En-* † 30. *gland*; ‡ 23. that others of theſe Ships lay hovering about the Coaſt of *Britanny*, from the Year 1718, to 1721, § expecting to be employed either by *Cane* § 22, 24, 27, 31, 32, 34. and *Chivers* (General *Dillon*) or || by *Hore*, (Sir *Harry Goring*) in what they call their *Home Trade*. That in the Year 1721, deſpairing of any Em- || 27, 31, 32. ployment of this kind, on account, as is expreſs'd in * one of their Letters, of *Hore* and his Partners being Cowards in *Trade*, they engaged themſelves * 32. in the Service ‡ of the *Swediſh Madagaſcar* Company, and in *December* 1721 ‡ 17. rendezvouz'd in the Bay of *Cadiz* for this Purpoſe; but this Project likewiſe failing, on account of ſome Deficiency on the Part of the *Swedes*, *Morgan* waited on the late Duke of *Ormonde* at *Madrid*, and was by him ſupplied with Twelve Thouſand Pieces of Eight, for fitting out the Ships † 47, 48. *Lady Mary* and *Revolution* † for the Pretender's Service; ‡ ſoon after ‡ 17. *Morgan*'s Return to *Cadiz*, the Arms and Ammunition which had been prepared for the *Madagaſcar* Voyage, conſiſting of Two Thouſand Muskets, Two Thouſand Bayonets, One Thouſand Carbines, Four Hundred Barrels of Powder, and a proportionable Quantity of Match, Flints, *&c.* were conſigned to *Morgan*, and by him put on Board the Pretender's Ship, called the *Lady Mary*; and *Morgan* having embarked on Board the ſaid Ship with ſeveral *Iriſh* Officers, ſet Sail from the Bay of *Cadiz* the latter End of *April* 1722, and went § 47, 48. firſt § to *Sancto Antonio*, and then to *Sancto Andero* in the Bay of *Biſcay*.

The Committee having ſent for Mr. *Guſtavus Bâhr*, formerly a Captain in the *Swediſh* Service, who being at *Cadiz* on account of the *Madagaſcar* Expedition, had Occaſion to tranſact ſeveral Affairs with *Morgan*, and the other Officers of the Pretender's Ships, they were informed by him that the Arms above-mentioned were brought, part of them from *Gottemburg*, and part from *Hamburg*, by one of the Pretender's Ships, named the *Fortune*, commanded by one *Butler*. That two thouſand of the ſaid Arms belonged to the *Swediſh Madagaſcar* Company, and were delivered by him, *Bâhr*, to *Morgan*.

That the Remainder, which belonged to Count *Rhenſtierna* a *Sweed*, were alſo purchaſed by *Morgan*, but not till ſome Weeks after the firſt two thouſand. That *Morgan* went to *Madrid*, and returned with twelve thouſand Pieces of Eight in Bills and Money, which Sum, he, *Bâhr*, ſaw in *Morgan*'s Hands. That Baron *Seebach*, and one *Oſthoff* (who are frequently mentioned in *Morgan*'s Letters) as alſo Count *Rhenſtierna*'s Agent, who delivered the Arms to *Morgan*, declared to him, *Bâhr*, ſince his Return to *Gottenburg*, That *Morgan* was ſupplied with theſe twelve thouſand Pieces of Eight from the late Duke of *Ormonde*, and that the Arms were paid for out of the ſaid Money. And *Morgan*'s Son being examined by the Committee, owned that his Father went at that time to *Madrid*, that the late Duke of *Ormonde* was then there, and that his Father did there receive Bills for fitting out the Ships, but from whom he cannot tell. *Bâhr*

Bâhr farther declared, That all the *Swediſh* Officers at *Cadiz* looked on *Morgan*'s Ships as belonging to the Pretender, and ſpoke of them in all Converſations as ſuch, which was confirmed to him expreſly by Baron *Seebach* and *Oſthoff*; and one of the Sailors of the ſaid Ships owned to the Committee, That they went from Port to Port without taking in any Cargo; That they had ſometimes but ſixty, and ſometimes one hundred and thirty Men on board the *Revolution*, and often received Orders for Sailing with all poſſible Expedition, which Orders were afterwards countermanded, without any apparent Reaſon for one or the other, and that this unaccountable Proceeding ſatisfied him, the ſaid Ships were engaged in ſome unwarrantable Deſign. *Bâhr* farther declared, That *Oſthoff* told him, the Ship *Revolution* was at firſt purchaſed in *England*, for tranſporting the late King of *Sweden* in Perſon, in his projected Deſcent on *Scotland*; and that he, *Bâhr*, ſaw the Name *Carolus* ſtill ſtanding in the Cabin of the ſaid Ship, when he was laſt on board her. And *Morgan*'s Son owned, That he had obſerved the Arms of the Crown of *Sweden* in the ſaid Cabin, which he ſuppoſed were placed there as a Token that the ſaid Ship was engaged in the Service of the *Swediſh Madagaſcar* Company, tho' he owned that the other Ships engaged in the ſame Service had no ſuch Token.

Some of the Particulars above-related, do very much explain and confirm * *O*——'s Letter to *L* —— of the 27th of *April*, as alſo † thoſe to *Dumville* and *Dodſworth*, in which it is ſaid, That the Hopes of Remittances from Perſons in *England* had induced *O*——— to ſupply *M*——— (which appears to be *Morgan*). That *O*—— could depend on two thouſand Arms from *M*—— (which appear to be the two thouſand Arms delivered to *Morgan* by *Bâhr* § before the Date of *O*——'s Letter. That *M*—— had writ from *C*—— (which appears to be *Cadiz*) that he could get more Arms if he had more Money; and accordingly the Committee find that a ſecond Supply of Arms was purchaſed by *Morgan* from Count *Rhenſtierna*'s Agent. *O*—— in his * Letter to *L*—— dated the 27th of *April*, ſays; 'I have order'd *M*——'s Ship to come to *A*——,' and it † appears that *Morgan* did at that very time embark on board the *Lady Mary*, with the Arms above-mentioned, and § went firſt to *Sancto Antonio*, and ſoon after to *Sancto Andero*.

* A A 5.
† A A. 4, 6.
§ 17.
* AA. 5.
† 17.
§ 47, 48.

The Sailors on their Examination having mentioned one *Hilton*, as commanding a Ship under *Morgan*, and the Committee finding a * Letter from *Morgan*, directed to *Don Nicholas*, which in a ſubſequent ‡ Letter is mentioned to have been writ to the ſaid *Hilton*, they thought it probable *Hilton* might be a fictitious Name for *Nicholas Wogan*, in the ſame manner as *Walton* was for *Morgan*, and *Gardiner* for *Gallwey*; having accordingly examined the Sailors as to this Particular, one of them ſaid, he believed *Hilton* was a fictitious Name, and *Morgan*'s Son owned that *Hilton*'s true Name was *Nicholas Wogan*, and that he had been confined in *England* on account of the *Preſton* Rebellion, as he was told by *Nicholas Wogan*, Jun. who went by the Name of *Paterſon*: and one of the Sailors declared that the ſaid *Wogan*, Sen. obtained the Command of one of the Ships under *Morgan*, after their Arrival in the Bay of *Cadiz*.

* 27.
‡ 28.

Theſe Particulars agree with *Glaſcock*'s * Letter to *George Kelly* of the 24th of *April*, *O. S.* in which he mentions *Nicholas Wogan* by the Name of *Xoland*, as being to have the Command of a Veſſel at *Cadiz*, to Cruiſe againſt the *Turks*, or *for other Views*, on which he will not pretend to decide; and *Kelly* ‡ anſwering this Letter, wiſhes *Wogan*'s *Chief* may ſucceed in his Journey. The ſame Particulars confirm Mr. *Crawfurd*'s † Letters of the 18th and 25th of *July*, by which it appears, that the two *Nicholas Wogan's* were at that time come to *Morlaix*, expecting *Morgan*'s Ships to follow them to that Port in order to their ſetting Sail for *England*; that the eldeſt of them was to have been Captain, and the other Lieutenant of one of thoſe Ships, and that they owned the Project in *Spain*,

* E. 31.
‡ E. 35.
† A. 30, 31.

by

by what they had learnt of it, was for the late Duke of *Ormond* to have landed in the *Weſt* with *Iriſh* Officers and Arms.

* A. 15. On the 8th of *June*, *N. S.* Colonel *Stanhope* * writ Word that the late Duke of *Ormonde* was preparing to Embark with Arms and Officers for † 47, 48. *England*. And your Committee find, that † about that time the Ship *Revolution* ſet Sail from the Bay of *Cadiz*; That the Sailors knowing the *Madagaſcar* Voyage to be dropped, refuſed to do their Duty till they were ſatisfyed as to the Place they were deſigned for. That hereupon *Gallwey* aſſured them it was to *Gibraltar*, in order to clean the Ship; but having got them under Sail, and ſatisfyed them about their Wages, they proceeded to the Bay of *Biſcay*; That they put in at *Sancto Antonio* to take *Morgan* on Board, and then joyned the *Lady Mary* at *Sancto Andero*. That upon their Arrival at this Place, the common Report on Shoar was, That the late Duke of *Ormonde* and four Companies of Soldiers were to be taken on board the *Revolution*; That Corn and Cattle were provided for the ſaid Soldiers; and that the late Duke of *Ormonde* was within a ſhort Day's Journey of *Sancto Andero*; That hereupon the firſt and ſecond Mate of the ſaid Ship, ſuſpecting *Gallwey* to be engaged in ſome unwarrantable Deſign, agreed not to ſerve any longer, unleſs *Gallwey* would give them a Note under his Hand, that they were forced into the Service, and would alſo declare whither they were bound, and give them Security that they ſhould not be employed in any other Voyage than ſuch as he ſhould declare to them; whereupon one of them was confined, and the other diſcountenanced by *Gallwey*.

* 39. That *Gallwey*'s real Expectations were to have come over with the late Duke of *Ormonde*, appears to the Committee moſt evident from the * Copy of a Letter of his, dated the 16th of *June*, the Day before he ſet Sail from *Cadiz*, in which are theſe Words, " I hope the ——— will " ſail To-morrow; your not repeating Orders and Advice concerning the " Buſineſs in Hand gives me a thouſand Apprehenſions; God ſend our " Bankers and the reſt of our Friends are ſafe, and ſtand their Ground. I " intend to Embark my-ſelf on Board the —— for fear *my Dear Aunt* ſhould " have any Occaſion for Aſſiſtance, of whom I am ſo tender that I would " not if poſſible have the Care of her put into any other Hands.

The Committee obſerve that the ſame Expreſſion of *My Aunt* is uſed in the Letter to *Dodſworth* with ſuch Circumſtances as make it highly pro- *AA.6. bable that in that * Letter, as well as this of *Gallwey*'s, it denotes the late Duke of *Ormonde*. They likewiſe obſerve, that the Names of *Manfield* and *Medley* are uſed in *Morgan*'s and *Gallwey*'s Letters in ſuch a Manner, as confirms thoſe Names to mean the late Duke of *Ormonde*, agreeably to the Explication given them in the Report of the Committee of the Houſe of Commons.

† 42. *Gallwey* in his † Letter of the 3d of *November* 1722, ſays, He has a couple of fine Grey-hounds, a Dog and a Bitch, for Mr. *Freeman*; the ſame ‡ 19. Dogs are mentioned in ‡ another Letter and in the ‖ Depoſitions of two of ‖ 47, 48. the Sailors to have been a Preſent from the late Duke of *Ormonde*, *to the Pretender*; which confirms the Explication of the Name of *Freeman*, mentioned in the ſaid Report, to be true.

* 26. There was likewiſe ſeized on board the *Revolution*, a * Letter to *Gallwey*, ſigned *John Obrien*, which appears to be in the ſame Hand-writing †F.14.28. with the † Letters ſigned *Gerrard* and *M. Digby* taken among Mr. *Dennis Kelly*'s Papers, and confirms *Gerrard* to mean Sir *John Obrien*, one of *Dillon*'s Secretaries, agreeable to the Conjecture in the ſaid Report.

‡ 40. *Gallwey*, in a ‡ Letter dated from *Alicant Bay*, the 13th of *September* laſt, expreſſes his Concern for *Kelly*'s Confinement, but hopes that is the worſt * 46. that can befall him; and a * Letter in *Kelly*'s Hand-writing ſigned *Ja. Johnſon*, directed for *Gardiner*, but encloſing a Note for twenty Guineas payable to *Gallwey*, was found on board the *Revolution*, as alſo a Direction † 45. entred with *Kelly*'s own Hand in a † Pocket-Book, ſuppoſed to belong to

Mor-

Morgan. *Kelly* in his Letter acknowledges the Receit of one from Sir *John* (which is probably their common Correſpondent, Sir *John Obrien*) and ſays their Friends in *Spain* are well, as one of the Family writes him Word: which ſhews how extenſive *Kelly*'s Correſpondencies were.

Gallwey in a ‡ Letter from *Genoa* of the 3d of *November*, 1722, (which appears to have been writ to one of the Pretender's Family) ſays he has acted for many Months paſt under the Direction of *Medley* (*Ormond*) who, he makes no doubt, has mentioned him to Mr. *Freeman* (the Pretender); yet in his * Letter to Lord *Catteret*, after his Ship was taken, he has the Aſſurance to affirm that he never ſaw the late Duke of *Ormond* ſince he left *England*, nor ever correſponded directly or indirectly with him or the Pretender, or any of their Adherents at home or abroad, but was always zealouſly well affected to His Preſent Majeſty and our happy Eſtabliſhment.

‡ 42.

* A. 45.

Guſtavus Bâhr abovementioned † depoſes among other Particulars that he has been informed the Pretender's Agents had Arms for three thouſand Men, lodged at a Houſe belonging to the late Duke of *Ormond*, near *Morlaix* in *Britanny*; which Port the Committee obſerve was one of the uſual Stations of the Pretender's Ships under *Morgan*; and it appears probable that theſe three thouſand Arms made part of the ten thouſand mentioned in *O*———'s ‡ Letter to *L*——— as provided by *D*———, who is ſuppoſed to be *Dillon*.

† 7.

‡ A A. 5.

Robert Franklyn, ſecond Mate of the Ship *Revolation*, depoſes, that [illegible] Letters directed to *John* or *James Jacobs*, at *Genoa*, were taken up at the Poſt-houſe by *Gallwey*. The Committee obſerve, that *Jones* in his † Letter to *Chivers*, mentions his having communicated the Copies of *Mansfield*'s and *Jacobs*'s Letters; and *Glaſcock* in his ‡ Letter to *George Kelley* of the firſt of *May*, ſays; 'He hopes Money is ſent to pay for the *Barrels*, which 'Jacobs has at his Diſpoſal:' In both which Places it is probable that *Jacobs* means *Gallwey*; and that *Barrels* mean Stands of Arms, is confirmed by a || Letter of *Morgan*'s, in which ſpeaking of that very Ship that brought the Arms above-mentioned from *Gottenburg* and *Hamburg* to *Cadiz*, he ſays, 'She had received Orders for taking in nineteen *Barrels*, with every 'thing neceſſary to make uſe of them:' Which laſt Words ſeem to refer to the Bayonets, Flints and Powder. § The Intelligence ſent by Mr. *Crawfurd*, on the 27th of *May*, That *Gordon* of *Boulogne* was to have a Ship ready to tranſport ſome of the Chiefs of the Conſpiracy to *England*, is confirmed by the Depoſition of *Roger Garth* (already publiſhed) who declares, 'That the ſaid *Gordon* (whom he had good Reaſon to believe to be 'an Agent of the Pretender's) did ſome time laſt Summer endeavour to en-'gage him to ply off of that Station with his Sloop, in order to carry 'over ſuch Perſons as he the ſaid *Gordon* ſhould recommend to him, pro-'miſing him that he ſhould have Employment enough.

‡ 48.

† D. 10.

‡ E. 37.

|| 27.

§ A. 9.

The Lords Committees conceive, that the ſeveral Particulars above related, will appear to the Houſe very much to corroborate the Accounts received from Abroad of Ships provided for tranſporting the late Duke of *Ormond* to *England*, with Arms and Officers, the beginning of laſt Summer; and that they alſo confirm the Decyphering of the Letters, and Explication of the Names, contained in the Report of the Committee of the Houſe of Commons.

The Lords Committees obſerving that ſome Paragraphs of the Letters referr'd to them were writ originally in Cypher, thought it proper to call the Decypherers before them, in order to their being ſatisfied of the Truth of the Decyphering. The Account they receiv'd from thoſe Perſons, was, that they have long been verſed in this Science, and are ready to produce Witneſſes of undoubted Reputation, who have framed Letters in Cypher, on purpoſe to put them to a Tryal, and have conſtantly found their decyphering to agree with the Original Keys which had been concealed from them; it was likewiſe confirmed to the Committee, that Letters de-

cyphered by one or other of them in *England*, had exactly agreed with the decyphering of the ſame Letters performed by Perſons in foreign Parts, with whom they could have no Communication; and that in ſome Inſtances after they had decyphered Letters for the Government, the Keys of thoſe Cyphers had been ſeized, and upon comparing them, had agreed exactly with their decyphering.

With reſpect to the intercepted Letters in Queſtion, they alledged that in the Cypher uſed by *George Kelly*, they find the Words ranged in an alphabetical Order, anſwering the progreſſive Order of the Figures by which they are expreſſed, ſo that the farther the initial Letter of any Word is removed from the Letter A, the higher the Number is by which ſuch Word is denoted; that the ſame Word will be found to be conſtantly denoted by one and the ſame Figure, except in the Caſe of Particles or Words of very frequent Uſe, which have two or three Figures aſſign'd to them, but thoſe always following one the other in a progreſſive Order. They likewiſe ſet forth, that in the Cypher above-mention'd a certain Order is conſtantly obſerved as to the placing of the Words made uſe of, that under each Letter of the Alphabet the firſt Gyphers are allotted to the proper Names of Places, the next to the proper Names or Titles of Perſons, the next to whole Words in common Uſe, and the laſt to denote ſingle Letters.

As to the Truth of the Decyphering, they alledged that ſeveral Letters written in this Cypher had been decyphered by them ſeparately, one being many Miles diſtant in the Country, and the other in Town, and yet their decyphering agreed; that Facts unknown to them and the Government at the time of their decyphering had been verifyed in every Circumſtance by ſubſequent Diſcoveries, as particularly that of *H*——'s Ship coming in Ballaſt to fetch *O*——— to *England*, which had been ſo decyphered by them two Months before the Government had the leaſt notice of *Halſtead*'s having left *England*: That a Supplement to this Cypher having been found among *Dennis Kelly*'s Papers the latter end of *July*, agreed with the Key they had formed of that Cypher the *April* before: That the decyphering of the Letters ſigned *Jones*, *Illington*, and 1378, being afterwards applied by them to others written in the ſame Cypher, did immediately make pertinent Senſe, and ſuch as had an evident Connexion and Coherence with the Parts of thoſe Letters that were out of Cypher, tho' the Words in Cypher were repeated in different Paragraphs and differently combined. And they inſiſt that theſe ſeveral Particulars duely weighed amount to a Demonſtration of the Truth of their decyphering.

As to the other Cyphers made uſe of by *Jernegan*, *Stanley*, and *Walter Grahame*, they conſiſt only of twenty four Figures, for the twenty four Letters of the Alphabet, and ſome other Figures for proper Names or whole Words, in the placing of which Names a certain Order is alſo obſerved.

Theſe ſeveral Particulars they declared themſelves ready to atteſt upon Oath, and to produce ſufficient Witneſſes to their Character and Integrity as well as their Skill.

The Committee being empowered by your Lordſhips to examine *Chriſtopher Layer*, did accordingly ſpend ſome time in the ſaid Examination, which produced a tedious Repetition of the Particulars contained in his Examination before the Committee of the Houſe of Commons, and ſome few Circumſtances which they found he had recollected by reading the printed Report and Appendix.

All that he confeſſed to them which is new, was, that he did before his ſetting out for *Rome* acquaint *Plunket* with his Intentions of carrying over a Note of the Names of the Tory Gentlemen of *Norfolk*, if *Plunket* thought it would be acceptable; that during his Stay at *Rome*, Sir *William Ellis* told him, that he had formerly correſponded with *Plunket* at the Requeſt of the Lady *Middleton*, but that he had not for ſome time paſt correſponded

with

with *Plunket*, or any one elſe, in relation to the Pretender's Affairs; for that from the time of the Action at *Dumblain* ſo many *Scottiſh* Noblemen and Gentlemen had come over to the Pretender, that he and all the reſt of the old Servants had been forbid all Correſpondence in *England*, or elſewhere. Upon *Layer*'s deſiring leave to correſpond with him if it were practicable, he told *Layer*, that on Condition he would promiſe to write nothing but what might be ſhewn to the Pretender himſelf, he would ſettle a Correſpondence with him; for that tho' he had followed the Fortunes of the late King *James* and his Family, ever ſince the Revolution; and had always been faithful to the Pretender, and for many Years his Caſhier, yet if any of the *Scottiſh* Gentlemen that were about the Pretender ſhould know he received a Letter without communicating it to him, it would coſt him his Place, and he ſhould be in utter Diſgrace: That *Layer* promiſing to write nothing but what might be ſhewn, *Ellis* gave him a Cypher of his own Hand-writing, as alſo another Cypher of cut Paper for carrying on the Correſpondence; that he *Layer* likewiſe ſettled a Cypher of fictitious Names with Mrs. *Hughes*, Nurſe to the Pretender's Child, and received a Letter from her in relation to the Chriſtening of his Daughter. He would not own that he knew of any other Cypher, and perſiſted that Mrs. *Kinder* meant the ſaid Mrs. *Hughes*, tho' in *Ellis*'s Cypher it ſtands for Mrs. *Fox*. He ſaid that the Paper which he deſired a Copy of from Sir *William Ellis*, and which is referred to in * *Ellis*'s Letter of the 30th of *January*, was a ſhort Scheme relating to the *Preſton* Affair ſhewn him by *Ellis* while he was at *Rome*, of which he remembers no other Particulars, but that Inſurrections were to be begun in ſeveral Counties in a dark Night. That when he made Application to *Plunket* for the fictitious Names of *Burford*, *Steele*, *&c.* he was forced to acquaint *Plunket* with his having ſettled a Correſpondence with *Ellis*, which *Plunket* reſented, and ſaid he thought *Ellis* had been forbid all Correſpondence with Perſons here. That the Reaſon of his asking *Plunket* for a fictitious Name for Lord *Orrery*, was that he had occaſion to mention to *Ellis* a Club which *Plunket* had often told him of; That *Plunket* once ſhewed him a Liſt of this Club of his own Hand-writing, which he read over two or three times, but that *Plunket* talked ſo inconſiſtently of them, that he *Layer* verily believes it was a mere Fiction of his own, and that there never was any ſuch Club. That he *Layer* thinks Lord *Orrery* mentioned to him Lord *Strafford*, as one of thoſe who, with Lord *North*, Sir *Harry Goring*, and others, were (as Lord *Orrery* was informed) going to do a raſh thing in favour of the Pretender; but that he cannot be poſitive as to Lord *Strafford*. That he *Layer* wrote himſelf to the Pretender, concerning the Difference of Opinion which he obſerved in Lord *North* and Lord *Orrery* about the Means of reſtoring him, and the Neceſſity there was that the Regent ſhould permit General *Dillon* to come over here with ſome foreign Forces. That he alſo drew up a Scheme of a Lottery to have been opened here in favour of the Pretender, and encloſed the ſaid Scheme in a Parcel with ſome Silk Stockings which he ſent as a Preſent to the Pretender and his Spouſe, by *Andrew Haye*, who travelled to *Italy* with Alderman *Barber*. That he delivered this Parcel to *Haye* with his own Hands, who promiſed to convey it to *Ellis*, and ſaid he could do it with Safety. That *Haye*, as he believes, underſtood the Stockings to be for the Pretender and his Spouſe; That he likewiſe had ſome Diſcourſe with *Haye* about getting Copper Plates engraved at *Rome* in *Engliſh* and *Italian* for the Tickets of the ſaid Lottery, and deſired him to receive Sir *William Ellis*'s Directions about it, which *Haye* promiſed to do. That while he *Layer* was at *Rome*, *Haye* asked him whether he would not ſee the King, meaning the Pretender; and that the ſaid *Haye* went frequently to the Pretender's Family in the way of his Buſineſs, and was, as he believes, preſent while the Pretender's and his Spouſe's Pictures were

* BY. 38.

Haye

Haye being examined by the Committee, owned the Receit of the Stockings, but denied their being delivered to him by *Layer*, or that he knew who they were for. He likewiſe owned the carrying a Packet to *Belloni*, the Banker at *Rome*, which was brought to him by a Porter from *Layer*, as he ſuppoſed.

Layer owns, that *Haye* told him *Belloni* was the Pretender's Banker, but denies his ſending any ſuch Packet by *Haye*; and in ſeveral other Particulars of their Examinations they contradicted each other.

† A Scheme of the Lottery above-mentioned (for raiſing 225,000 Pounds Sterling) having been found among the Papers of *Walter Jefferyes*, now in Cuſtody, the Lords Committees thought proper to examine him how he came by it; he owned his being acquainted with *Layer* and *Plunket*, that he ſaw *Layer* about the time of his going abroad, and helped him to a Bill on a Banker at *Antwerp*; but he denied his knowing from whom he received the ſaid Scheme, or his having had any Converſation with any one about it, and ſaid it might be put into his Hands by *Plunket*, for ought he knew, but that he was not ſure he had ever read it, and if he had known ſuch a Paper had been in his Cuſtody he ſhould have deſtroyed it.

The Lords Committees being informed that *Layer*, between the time of his delivering the larger and leſſer Bundle of Papers to Mrs. *Maſon*, had deliver'd to her a large Parcel covered with blue Paper and ſealed in ſeveral Places, and that he did within a few Days after take it back again, telling her he wanted to carry it to Lord *North* and *Grey's*, they examined *Layer* particularly on this head, but he denied that he ever delivered her any ſuch Bundle.

The Lords Committees next proceeded to the Examination of *John Plunket*, who began with large Proteſtations of his Innocence, and offered of himſelf to account for three Facts charged upon him in the Report, and to ſhew they were great Miſtakes. The firſt was, his receiving a Letter from *George Kelly*; the ſecond, his receiving the Letter at *Antwerp*, ſigned *Dixwell*; and the third, his receiving the Letter from the Pretender, taken at Mrs. *Creagh's*. And as in his Examination before the Committee of the Houſe of Commons he had fallen on the Expedient of ſubſtituting *Hugh Thomas* to perſonate *Rogers*, ſo now they found he had furniſhed himſelf with three different Perſons, at different Places, all of the Name of *Plunket*, to whom he would have it believed theſe Letters were written, without offering any the leaſt Proof or Circumſtance of Probability to ſhew that ſuch Perſons were at all concerned in thoſe Letters, or that there ever were any ſuch Perſons in being.

The Letter from *George Kelly*, he ſaid was not writ to him, but to one *Harry Plunket*, who delivered it to him at *Will's* Coffee-Houſe, *Covent-Garden*, and that it related to ſome Money that was to be raiſed on a Security of Mrs. *Barnes's*.

As to the Letter ſigned *Dixwell*, he ſaid, there were two Clergymen of the Church of *Rome*, one or both of which travelled with him and *Layer*, from *Dover* to *Antwerp*; that one of them went by the Name of *Loyd*, but his real Name was *Plunket*. That this Man dropped the Letter ſigned *Dixwell*, at a Coffee-Houſe, and he *John Plunket* taking it up with a deſign of reſtoring it to him in *Lorrain*, (to which place ſometimes one and ſometimes both of theſe Clergymen were gone) ſhewed it to *Layer*, who took it into his Head that this Letter had been writ to him *John Plunket*.

The Letter from the Pretender, he ſaid, fell into his Hands much in the ſame manner; that there is one Father *Plunket* at *Rome*, to whom the Pretender always writes when any Body is to be introduced to him. Being asked whether Father *Plunket* travelled with *Layer* to *Rome*, (becauſe mention is made in the Pretender's Letter of a Companion of *Plunket's*) he ſaid the Pretender always called the Perſon that was to be introduced by Father *Plunket*, his Companion. That this Father *Plunket* happening to ſhew him this Letter, and commending the Hand, he *John Plunket* ſaid

ſaid he had a Friend at *Rome*, that would be glad to ſee the Pretender's Hand writing. And Father *Plunket* having accordingly left the Letter with him, he ſhewed it to *Layer*, and forgot to return it to Father *Plunket*, who never called for it, having fifty more Letters of the ſame kind by him.

Upon the Lords Committees asking him whether he went by the Name of *Rogers*, he ſaid he went by ſeveral Names in his Travels, that he might not be impoſed upon in his Reckonings, as the *Engliſh* generally are. Being asked whether he took the Name of *Rogers* to prevent his being thought an *Engliſhman*, he ſaid that in *Italy* he was called *Ruggieri*.

They farther asked him, whether he had dictated any fictitious Name to *Layer*, or had mentioned any thing to him of a *Club*; to which he anſwered, that he had given *Layer* the fictitious Name of *Bedford* or *Burford*, for Lord *Orrery*, which Name he had from *Neynoe*. That one Night being in Company with *Layer*, and ſome Clergymen whoſe Names he has forgot, the Diſcourſe turning on the Proteſts of the Lords, and the Names that were ſubſcribed to them, one of the Company ſaid, Theſe are a Loyal Club; another ſaid, They are Jacobites; and that he *Plunket* ſaid there was a Loyal Club of eighty or ninety Lords who would ſtand in Defence of their Country.

He farther obſerved to the Committee, that in the Bill now depending before your Lordſhips, he is not mentioned by the Name by which he was baptized and confirmed; he ſaid his Sirname was *Plucknet*, but his Chriſtian Name he declined telling; and ſeemed to place ſome Hopes and Confidence in this Subterfuge.

The Committee finding him trifle with them in this egregious manner, asked him in general, whether he had ever been in Conference with the Pretender, or had correſponded with him, or any of his Agents; to which he anſwered in the Negative.

The Committee next ſent for *George Kelly*, who told them that the Affair being ſoon to be brought before your Lordſhips, he deſired to be excuſed from anſwering any Queſtions; ſo that they had no Opportunity of examining him as to the new Matters alledged againſt him in the Depoſitions of Mr. *Philip Caryll* and others.

However they thought it proper to ſend for the ſaid Mr. *Caryll*, and to ask him whether he had any thing to add to or retract from his former Accounts. His Depoſitions being read over to him, he expreſſed himſelf very Angry and Uneaſy at their being made Publick, and told the Committee he was not diſpoſed to anſwer any farther Queſtions, being ſorry for what he had ſaid already; he likewiſe inſinuated, that what he had ſaid had not been taken down exactly as he dictated it, and ſeemed apprehenſive that he was called upon to accuſe himſelf of Matters that might be prejudicial to him. But upon the Committee's telling him that the moſt effectual way he could take to do himſelf Service, was to make a candid and ingenuous Diſcovery of the whole Truth, he ſaid he had already given a candid Account, and hoped he ſhould not have been a Sufferer for his Candour. Being asked whether his Depoſitions had not been read over to him before he ſigned them, he ſaid they were; but that he was in a great Confuſion at the time they were taken: Being then required by the Committee to read them over himſelf, and to ſhew in what Particulars they vary from his Senſe and Meaning, he grew more compoſed; and having read over the firſt, dated the 27th of *March*, ſaid, he believed it was right enough; in reading over the ſecond (dated the 29th of *March*) he ſaid it was not ſtrictly true that Sir *Harry Goring* had *told him* what is there related, concerning an Invaſion, Commiſſion, *&c.* but that it was true, he had heard Sir *Harry Goring* ſay ſo; that as to Lord *Lanſdown*'s being to Land in the *Weſt*, he could not be poſitive, but he thinks Sir *Harry Goring* ſaid ſo; he ſaid, it was but a Suppoſition of his own, that the Diſcourſe

which

which occaſioned the Biſhop of *Rocheſter*'s taking Sir *Harry Goring* by the Collar, related to the Pretender's Affairs; but that he remembers very well, Sir *Harry Goring* did affirm, that on his ſaying the Words there recited, this is Rocking the Cradle indeed) the Biſhop did take him by the Collar, and that he, *Caryll*, did *Apprehend* the ſaid Diſcourſe to have Relation to the Pretender's Affairs. He ſaid it was about two Years ago that being at Sir *Harry Goring*'s he ſaw a Letter lye on his Scrutore, directed to Mr. *Hore*, and upon his asking Sir *Harry* who the ſaid Letter was for, Sir *Harry* told him it was writ to himſelf; he ſaid that the Words in his Depoſition which Import, that he, *Caryll*, *had Reaſon to believe Kelly* and Sir *Harry Goring* were ſettling together a Key at his Houſe at *North*, by which they might Correſpond, are too ſtrong; for that he, *Caryll*, did not ſee any ſuch Key, only it was his Suſpicion and Thought at that time that they were framing ſuch a Key.

He likewiſe ſaid, that what relates to *Boyce* in the ſaid Depoſition is rather ſtronger than he meant it, for that *Boyce* only told him he was afraid the Servant he *Caryll* had ſent to him to help off was *Sample*, alledging this Reaſon, that he had obſerved he was diſguiſed, and that he was afraid he was ſomewhat like the Deſcription given of *Sample* in the Proclamation. All the other Particulars of his Depoſitions he averred to be true, but ſaid, he had nothing farther to add, and that he would rather a thouſand times die in *Newgate*, than be an Evidence.

Boyce, being examined by the Committee, owned that Sir *Harry Goring* went to *France* in his Yatch, and that a Servant went over with him in a Black Whig, whom he had never ſeen with Sir *Harry Goring* before; but he utterly denyed his having conveyed over any Perſon ſent to him by Mr. *Caryll*, or his having had any Diſcourſe with *Caryll* about any Perſon's anſwering the Deſcription of *Sample*.

The Committee having ſummoned before them *William Beaſing*, of *Horn Dean*, and having read to him his former Depoſitions, find that he retracts what he had there depoſed on Oath, of *Caryll* and Sir *Harry Gorring*'s being in Company at his Houſe with the Perſon who had but one Hand; he ſays, ſuch a Perſon was at his Houſe with two other Gentlemen, but that he now recollects *Caryll* and Sir *Harry Goring* were not there at that time. Being asked whether he had received any Letter or Meſſage, ſince his being in Cuſtody, which had helped to ſet him right in this Particular, he anſwered in the Negative.

The Committee obſerve from the Parts of Mr. *Caryll*'s Depoſitions which he affirmed, that the Explication given to the Name of *Hore*, in the Report of the Committee of the Houſe of Commons, as alſo the De-
E. 35. cyphering of that part of *Kelly*'s * Letter which mentions *Hore*'s Commiſſion, and the Conjecture of *Goring*'s having carried over a new Cypher from *Kelly* to *France*, are very much confirmed. They likewiſe ob-
† E. 79. ſerve that what is ſaid in *Glaſcock*'s † Letter to *Kelley* of the $\frac{20}{31}$ of *October*, concerning the Arrival of the little *French* Merchant, mentioned by *Kelly*, and the Precaution they intend to uſe in relation to him till ſome other appears with whom they may talk of Buſineſs more to the Purpoſe, has probably relation to *Sample*'s being got ſafe to *France*. And the Letters ſigned *Fra. Phillips*, which *Caryll* owns he received from *Kelly*, not not only confirms *Kelly*'s writing by fictitious Names, but is a ſtrong
† E. 75. Argument of his being the Perſon that writ the † Letter to *Bonnaville* of the 27th of *September*, and conſequently the other Letters charged upon him, in the Report. For as in his Letter to *Caryll*, he ſays: "*I* "*have never heard a Syllable* from your other Lawyer, (Sir *Harry Goring*) "ſince you and I were with him, which you'll ſay *is pretty ſurprizing*, "and am afraid very *Detrimental*." ——— ſo in that to *Bonnaville* (writ within five Days of the other) he ſays, "*I have not heard a Syllable* "from *D. Gainer*, or *G. Roberts*, ſince Mr. *G. Sampſon* went, which has

been

" been a great *Surprize*, and I may ſay no ſmall *Detriment*, to ſome of " their Friends."

This Identity of Expreſſion, in two Letters writ ſo near the ſame time, appears to be a farther Confirmation that the ſame Perſon writ them both, and confirms G. *Sampſon* to be the ſame with the *other Lawyer*, which *Caryll* has explained to mean Sir *Harry Goring*.

The Lords Committees alſo find in the Papers referred to them new Evidence of *Kelly*'s viſiting, writing to and receiving Letters from the Biſhop of *Rocheſter*, as appears by * Affidavits from the Perſons who carryed *Kelly* to the Biſhop's Houſe, and who alſo delivered Letters from him to the Biſhop, and brought back the Biſhop's Anſwers; and Mrs. *Levett* ‡ depoſes on Oath, that Mrs. *Barnes* has told her *Kelly* received in one Day as many Letters from abroad as came to fourteen or fifteen Shillings, the Directions of which ſhe *Barnes* ſaw, but they were in ſuch odd fictitious Names, as no one could find out but *Kelly*, who had the Key; that among theſe Letters there was one for the Biſhop of *Rocheſter*, (as *Kelly* told her) which he was at that time, gone to deliver to the Biſhop. And *John Malone* * depoſes, that among the Letters which he carryed from *Kelly* to the Poſt, there were ſome directed to *Waters* the Banker at *Paris*, under whoſe Cover it appears that moſt of the Treaſonable Letters were ſent, and the original † Letter in *Kelly*'s own Hand ſtopt at the Poſt-Office was incloſed in a Cover ſo directed. Mrs. *Levett* farther * depoſes, that Mrs. *Barnes* told her, under Secrecy, that the Dog ſent from *France* was a Preſent *from the late Lord Marr*, to the Biſhop of *Rocheſter*'s Lady; which is in ſome meaſure confirmed by the Draught of the Affidavit prepared for *Birmingham* at *Paris*, in which he is deſired to ſwear that *Lord Marr* knew nothing of any ſuch Dog; and though this Affidavit does not appear to have been ſent over by *Kelly* directly, yet expreſs Mention is made in the Letter to *Gordon*, that the ſaid Affidavit is the Copy of a Note from the Perſon concerned, with the Subſtance of what *he thinks requiſite*. This Circumſtance of the Dog's having been ſent by the late *Lord Marr*, which is not expreſly alledged in any part of the Report of the Committee of the Houſe of Commons, is a new Confirmation that the †Letter ſigned 918, which mentions the ſending the Dog, is from *Marr*; and that *Muſgrave*, to whom the Receipt of the Dog is acknowledged in *two ſeveral Letters, is likewiſe a Name denoting *Marr*, agreeably to what is aſſerted in the ſaid Report.

‡ 11.

* 12.

* 11.

† E. 32.

*E. 35, 42.

The Committee find by || two Affidavits referred to them, that *George Kelly*, the laſt time he was taken into Cuſtody, offered the Woman of the Houſe a Gold Watch, forty Guineas in Money, and a Note for forty Pounds more, to let him eſcape.

|| 15, 16.

The Committee have laid the Subſtance of theſe ſeveral Examinations together, as having ſome Reference to *George Kelly*.

They likewiſe examined Mr. *Dennis Kelly*, who utterly denied his being adviſed with, or knowing any thing relating to any Conſpiracy. Several Papers found in his Cuſtody being ſhewn to him, he denied his having ever ſeen them before, except when ſome of them were ſhewn to him at former Examinations.

They next ſent for Captain *Pancier*, and having ordered his ‡ former Depoſitions to be read to him, ask'd him whether he had any thing to Add or Retract; he affirmed every Part thereof to be true, and ſaid he had only this farther Particular to add, That having lately ſeen *George Kelly*, as he was brought down to the Houſe of Commons, he recollects that he has often ſeen him at the Gaming-Tables with *Skeene*, and that *Skeene* and the ſaid *Kelly* were intimately accquainted, as he is able to prove by ſeveral Witneſſes of Credit. *Skeene* being call'd in, and having heard *Pancier*'s Depoſitions read over to him, own'd, That he was acquainted with *Pancier*, and had been in Company with him at ſeveral of the Times and Places menti-on'd in the ſaid Depoſitions; That he was taken Priſoner in the *Preſton*

‡ D. 1, 2.

Re-

Rebellion, but is not related to *Marr*, nor has ever ſeen *Mackintoſh* ſince he parted from him at *High-gate* : He own'd he had had general Diſcourſe with *Pancier* relating to a Plot, and that *Pancier* had ask'd him ſeveral Queſtions about it, to ſome of which he (*Skeene*) aſſented, and to others not; but he deny'd his having told *Pancier* any farther Particulars than were in the News Papers, or in the Current Report of the Town. As for Inſtance, when *Pancier* asked him where the late Duke of *Ormond* was, he told him the News-Papers ſaid he was at *Corunna*; but he *poſitively* denied his having ever mentioned to *Pancier* any *Particular Perſons* as concerned in the Conſpiracy, or any of the *Particular Facts* ſpecified in his Depoſitions.

He farther ſaid, he had reaſon to believe that *Pancier* had ſent to him ſince his being in Cuſtody, to adviſe him to make his Eſcape, for that one *Gerrard Fitzgerald* having been walking with *Pancier* in the *Park*, came directly from thence to him, *Skeene*, at the Meſſenger's Houſe, and adviſed him to make his Eſcape; tho' he owned that *Fitzgerald* made no mention of *Pancier*'s having ſent him any ſuch Advice.

Fitzgerald being ſent for by the Committee, owned he had been to ſee *Skeene*, and finding no body at that time in the Houſe but a Woman, told *Skeene* it would be an eaſy Matter for him to eſcape; but he cleared *Pancier* from having ſent any ſuch Intimation or Advice. He farther ſaid, that *Skeene* told him he did not know but he might have talk'd fooliſhly to *Pancier*, but that if he had, *Pancier* was but a ſingle Evidence, or to that effect.

*7. The Committee find, among the Papers referred to them, a * Copy of the Orders which *Arnold* received from the Owners of the Ship *Phineas*, requiring him to follow the Directions of *Roger Nowell* (*Halſtead*) during the Voyage; as

† 8. alſo an † Affidavit, by which it appears, That the ſaid *Halſtead* was to viſit the Biſhop of *Rocheſter*, and ſtaid an Hour at his Houſe, a few Days before his ſetting out for *Bilboa*.

‡ 6. They alſo find a very remarkable ‡ Letter ſent to one of the Secretaries of State, by an unknown Hand, dated the 12th of *February*, 1721-22,

† 5. and incloſed in † one, dated the 31ſt of *March*; which firſt appears to be

‡ E. 9. the Letter referred to in ‡ one of *Neynoe*'s Examinations, as drawn up by *Kelly* and himſelf, and brought back to him corrected, as he believ'd, by the Biſhop of *Rocheſter*.

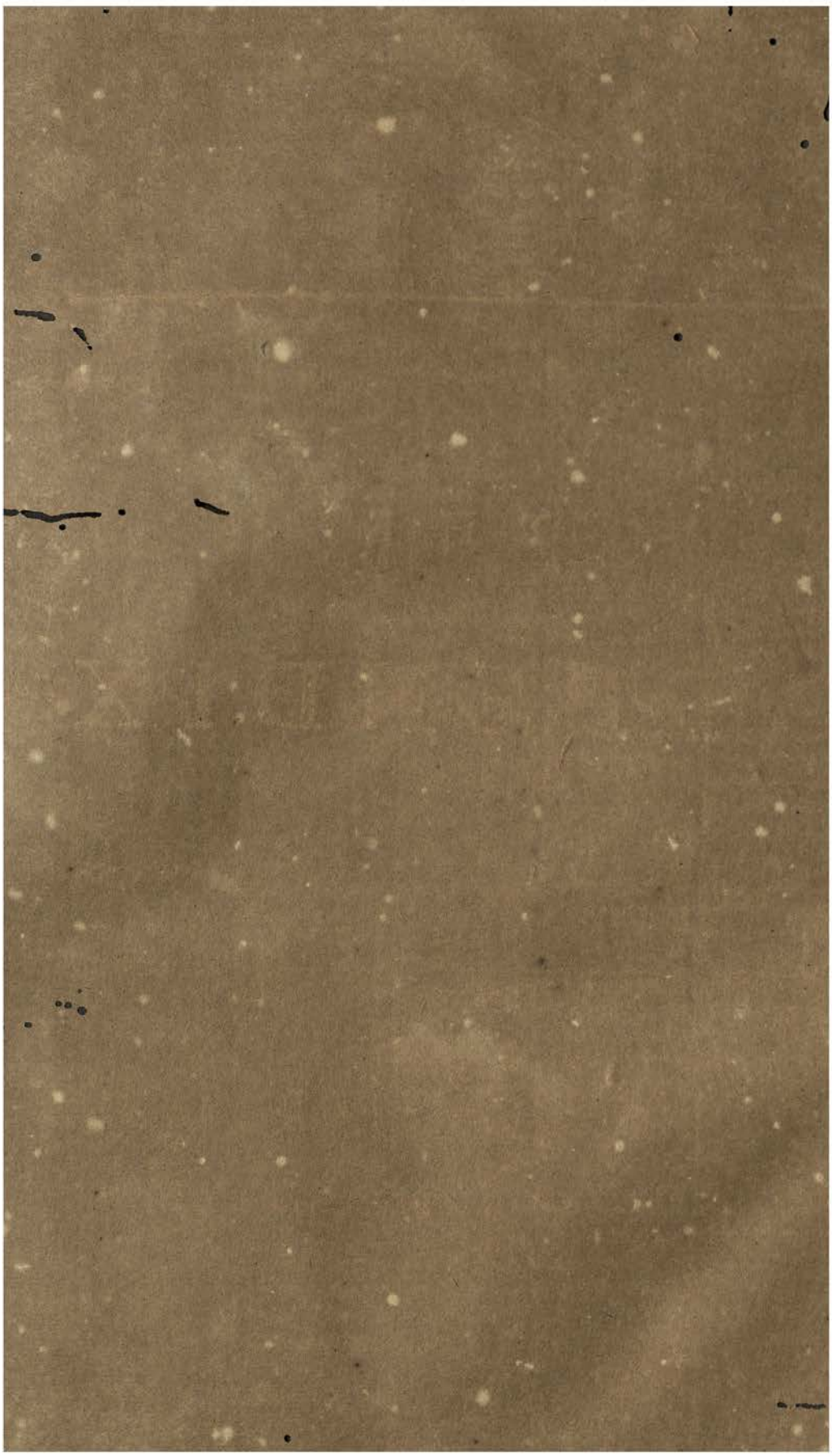
‡ 2. They likewiſe find a ‡ Paper taken in Lord *North* and *Grey*'s Study at *Catlige*, which contains ſeveral very extraordinary Reaſonings on the Nature of Oaths; tending to prove, That the Oaths to the preſent Government are not Obligatory, and that tho' the taking ſuch Oaths is in its ſelf unlawful, and a grievous Sin, as being inconſiſtent with Prior Oaths, or Obligations, yet neither the taking nor breaking them can in ſtrictneſs fall under the Denomination of Perjury.

This is the Subſtance of what the Committee have been able to collect from a careful Peruſal of the Papers referred to them and a long Examination of ſeveral of the Perſons concerned, in ſome of whoſe Power they have Reaſon to believe it was to have made ample Diſcoveries, if they had been diſpoſed to ſpeak the Truth.

And tho' the Lords Committees cannot reflect, without Pity and Compaſſion, on the miſguided Zeal, and wretched Infatuation of thoſe Men, who rather chuſe to expoſe themſelves to the greateſt Dangers, than to diſcover the Authors or Accomplices of their Treaſons; thereby declaring to the World, that the Leagues and Confederacies of private Villany are dearer and more ſacred to them than the ſtrongeſt Tyes and Obligations of Society; yet the Committee make no doubt but the Matters contained in the Report referred to them, and corroberated by the Reſult of their preſent Enquiry, will appear to your Lordſhips ſo clearly made out, that the Conſpirators, ſooner or later, will have leiſure to repent of the raſh and impious Choice they have made, of being rather true to one another, than to God, their Conſciences, and their Country.

F I N I S.

THE APPENDIX.



List of Papers.

1 SCheme of a Lottery referred to in one of *Layer*'s Papers. Page 1
2 Conſiderations on the Nature of Oaths, found at Lord *North* and *Grey*'s. p. 2
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I.

A Scheme for raiſing 1,000,000 *of Crowns by way of Lottery, upon the Security of the* Bank *at* Rome, *and upon the Terms and Encouragement following,* viz.

1. THAT Tickets be delivered out for Ten *Roman* Crowns each, then the whole Number of Tickets will be——— } Tickets. 100,000
And the Total Sum to be paid for them will be 1,000,000 Crowns.

2. That the 1,000,000 of Crowns ſhall be divided into Prizes, in Manner following.

		Crowns	Crowns	Sterling
	1	20,000	20,000	4500
	2	10,000	20,000	4500
	4	5,000	20,000	4500
	6	4,000	24,000	5400
	10	3,000	30,000	6750
	15	2,000	30,000	6750
	20	1,000	20,000	4500
	30	500	15,000	3375
	40	400	16,000	3600
	60	300	18,000	4050
	100	200	20,000	4500
	200	100	20,000	4500
	1000	50	50,000	11250
	39700	20	697,000	156825
Total Prizes	41,188	Total Crowns - - -	1,000,000	*L.* 225,000
Total Blanks	58,812			
Total Blanks and Prizes.	100,000			

3. The Prizes ſhall be drawn in the ſame Manner as is practis'd for the Drawing of the Lotteries of *Holland*, and ſhall bear Intereſt after the Rate of 8 *l. per Cent. per Ann.* to Commence from *Michaelmas* next, until the reſpective principal Sums or Prizes ſhall be paid off, which is propoſed to be done in leſs than two Years.

In this Lottery there will be little more than one Blank to one Prize, ſo that all the Subcribers to it will have a very good Chance for Prizes; and they that ſhall have the loweſt Prize, which is 20 Crowns, will have at the Rate of 16 *per Cent. per Ann.* paid them for the prime Coſt of their Ticket, beſides being repaid twice their principal Sum; And the Advantage of thoſe that ſhall have the good Fortune to be entitled to any of the higher Prizes will be proportionably greater, and in an Average all thoſe concerned in the Prizes will have repaid them, beſides the 8 *per Cent.* Intereſt, upon the prime Coſt of their Ticket, from Two to Two thouſand Fold.

2.

Conſiderations on the Nature of Oaths at preſent, &c. *Taken at the Lord* North's, *28th* Sept. 1722.

IN a Time when nothing is ſo common as Reproaches, and when Words are flung about by People that know not their Meaning, and one calls the other Perjured and Traytor, being Ignorant of the true Meaning of either of thoſe Terms, it will be not unuſeful, however unacceptable, to ſay a little on the former Word, and explain what is Perjury; for the latter, there are ſo many able Expoſitors of the Law ready to interpret Traytor in the favourable Senſe (I mean to the Government) that I my ſelf, who will endeavour to keep as clear of the *forum humanum* as poſſible, do not know but that a Caſe of Conſcience may be conſtrued to come within the Stat. of 25 of *Edward* III. and I to ſhew my Parts againſt Mr. Attorney and the King's Council. I'll conceal my ſelf therefore, and, if I can help it, will ſtand no Tryal but in my own Country, a Place where Juſtice is practiſed, a great way off hence. But before I come to the Deſign of this little Tract, which is to explain what Oaths are Obligatory, and conſequently the Breach of what Oaths is Perjury, I cannot forbear obſerving how ridiculous the Reproach of Perjury comes out of the Mouth of any *Britain* that can remember 30 Years. They that thought the Revolution no Breach of the Oaths of Allegiance, can they reproach any one with a Breach of theſe? But there are ſome People Anti-caſuiſts, that think an Oath only obliges in unlawful Matters, that like a very lewd Fellow that uſed to aſſert every Falſity with an Oath, ſaying a Truth could ſhift without it. But thus much, and perhaps too much, by way of Preface. Now to the Point. The Ingenious and Pious Dr. *Sanderſon* defines an Oath to be a Religious Act by which God is called as a Witneſs to confirm a doubtful Matter; He likewiſe lays down five Hypotheſis, of which I ſhall mention but the 3. 4. and 5. they being only to our Purpoſe. 3. No Oath takes away a Prior Obligation. 4. What is impoſſible cannot oblige; now what you cannot lawfully do is look'd upon as impoſſible, *id tantum Poſſumus quod jure Poſſumus*. 5. We cannot oblige our ſelves to do what is unlawful, for if it is an *unlawful Thing* which you were to do, the Perjury is in Swearing, not in breaking that Oath. * An Oath has an Obligatory Force with it, but not Deſtructive, but Conſtructive only; that is to ſay, it may bring a new Obligation where there was none before, or confirm one that preceded it, but it cannot remove any Obligation that it finds already entered into, or ſuperinduce other repugnant to it. He gives for Inſtances the mutual Obligation between Man and Wife, Father and Son, Maſter and Servant, King and Subject. Thus far out of that great Caſuiſt; which is enough to determine what Force the Oaths of Allegiance and Abjuration under the preſent Powers can poſſibly have. I ſhall only therefore apply them to that Purpoſe. *Firſt*, As to the Oath of Allegiance, if there was no Obligation in the People of *England* neither by natural Duty to any other Prince, nor Antecedent Oaths to him and his Succeſſors before the time of the Revolution, then the Oaths to King *William*, &c. are certainly valid; but if the contrary were true, then according to the 3d Hypotheſis the firſt Obligation remains in full Force notwithſtanding the Oath. Again, if there was no Power in the People to make a King, and if there be any Acts of Parliament unrepealed which declare the Subject to have no coercive Power o'er the King; not even both Houſes of Parliament; then tho' you Swear to ſuch a Perſon as King, it neither makes him ſuch, nor obliges to any Allegiance, but comes within the 4th Hypotheſis. Whether the 5th Hypotheſis is concerned in this Queſtion will appear to any one who will examine the Law of Nations, particularly our own, and Declarations of Acts of Parliament of the King's Rights (I mean a lawful Aſſembly of King, Lords and Commons) and if there he finds that Kings are ſubject to none but God, particularly the King of *England*; that the Monarchy of *England* is Hereditary, not Elective, and that either of both Houſes of Parliament have no coercive Power over the King, why then to transfer Allegiance whilſt the Rightful Monarch is in Being is unlawful; an Oath to that Purpoſe is conſequently invalid, has no manner of Force whatſoever againſt our natural Duty. But before I leave this Point, I muſt take Notice how Dr. *Sanderſon* anſwers an Objection here made, and ſhall Anſwer it otherwiſe than he does: The Objection is, But not fulfil what you promiſe, is Perjury? Yes, (ſays my Author) but if the thing was unlawful which you ſwore, you were Perjured when you took that Oath, not when you broke it. With all the Reſpect due to ſo great a Man, I think this Expreſſion too Rhetorical for a Caſuiſt, for there is need of both Tropes and Figures to make the taking of any promiſary Oath Perjury: I cannot agree with him therefore in this, that the Breach

of

of ſuch an Oath is Perjury; it is certainly a Sin and a very grievous one, God forgive them that take ſuch; but I think cannot be called by that Name, for that which never carried any Obligation with it, the Breach of it cannot be Perjury; as in Marriage (a moſt Holy Vow) there is no ſetting aſide the Contract (except for Cauſe of Fornication) without declaring it was null and void from the Beginning, ſo in Promiſary Oaths, except the Perſon ſworn to releaſes you, and *ut Supra*, nothing can ſet them aſide except they be null and void from the Beginning, as Prior Obligations, Impoſſibilities and Injuſtice makes them.

3.

The Depoſition of William Wilſhman, *Maſter of the* William *and* Betty *of* Loo, *in the County of* Cornwall;

WHO ſays, that on the 3d of *September* laſt paſt, he being at *Paſſage* in the Kingdom of *Spain*, did go on board the Ship the *Lady Mary*, Capt. *Patrick Camell* Commander: That on the 17th of the ſaid Month ſhe ſail'd from the ſaid Place: That on the 18th of the ſame Month he was in Company with one *Fitzgerald*, diſcharged from the ſaid Ship, who told him that ſhe was bound for *St. Antonio*, or *St. Andreo*, to join Commodore *Walton*, Commander of the *Revolution*, a Ship of 38 Guns, a Pink of 24 Guns, commanded by one *Mercato* of *St. Malo*; another of 32 Guns; and three more from 20 to 24 Guns. That they had all Arms and Ammunition lying there ready for them, which they had lodged there ſome time before; That the *Lady Mary* had 350 Barrels of Powder, and 4000 ſmall Arms which ſhe had put a-ſhore there to clean, and that all the reſt of them had in Proportion: That the ſaid *Fitzgerald* ſerved his time to a Joyner in the City of *London*, and that he made Caſes for all the Barrels of Powder: That the ſaid Ships had ſeveral Boars in their Holds to land their Arms and Ammunition: That ſince *March* laſt four *Dutch* Veſſels have arrived at *St. Sebaſtian* from *Oſtend* with Recruits, to the Number of 100 each, or thereabouts, which were received by Col. *Kelly*; but for whoſe Service this Deponent does not know.

Capt. & Jurat. 2° Die Novembris 1722. *Coram me*

Ch. Delafaye.

Wm. Wilſhman.

4.

The Depoſition of Thomas Sowden, *and* Degory Williams, *belonging to the Ship the* William *and* Betty *of* Loo, *in the County of* Cornwall, William Wilſhman *Maſter*;

WHO ſay, that they ſailed from *England* in *Auguſt* laſt paſt with *William Wilſhman* above-named, on board the ſaid Ship *William* and *Betty* of *Loo*, to *St. Sebaſtian*, and arrived there on the 28th or 29th of the ſaid Month: That they did on the 2d of *September* laſt go from thence by Land to *Paſſage*, to ſee the Ship the *Lady Mary*, Capt. *Patrick Camel* Commander; that after they had been on board her they accidentally fell in Company with one *William Ward*, who belonged to the ſaid Ship the *Lady Mary*, and the Deponent *Thomas Sowden* ſaid jocoſely to him, You eat and drink well, and ride up and down, and have Money at Command, tho' you do not bring or carry any thing, but I fear ſome body will pay for it at laſt; to which the ſaid *Ward* made anſwer, That ſome would pay for it towards the Spring, and that he feared ſome would fall firſt. That on the 18th of the ſaid Month their ſaid Maſter *William Wilſhman* returning from *Paſſage* on board his ſaid Ship the *William* and *Betty* lying at *St. Sebaſtian*, did immediately after his coming on board, in the Preſence of theſe Deponents, and of the reſt of the Ship's Company, declare, That he had that Day been

in

in Company with one *Fitzgerald* at *Paſſage*, who told him that the above-mention'd Ship the *Lady Mary* was bound for *St. Antonio* or *St. Andreo*, in order to join there Commodore *Walton*, Commander of the *Revolution*, a Ship of 38 Guns; one *Mercatoe* of *St. Malo*, Commander of a Pink of 24 Guns; another Ship of 32 Guns, and three more from 20 to 24 Guns; that they had all Arms and Ammunition lying there ready for them, which they had ſome time before lodged there; that the *Lady Mary* had 350 Barrels of Powder, and 4000 ſmall Arms, which ſhe had put a-ſhore there to clean, and that all the reſt of them had in Proportion. Theſe Deponents further ſay, that they have frequently been in Company with the above-named *Fitzgerald*, and have often heard him ſay, that he would rather beg the Country or ſtarve than ſail upon the ſame Account, in the ſaid Ship *Lady Mary*. That ſince *March* laſt four *Dutch* Ships have arrived at *St. Sebaſtian* from *Oſtend* with Recruits, each of them having had on board to the Number of 100, or thereabouts, and were received by Colonel *Kelly*; but for whoſe Service the Deponents know not.

Capt. & Jurat 2° Die Nov. 1722. Coram me

Ch. Delafaye.

Tho. Sowden.
Degory Williams.

The further Depoſition of Degory Williams, *Mariner*;

WHO ſays, that he went in Company with one *William Pearſon* belonging to the Ship the *Lady Mary*, from *St. Sebaſtian* to *Paſſage*, and on the Road asked him what they were, whether Pyrates, or what? He anſwer'd this Examinant, they were no Pyrates, but that he the Examinant was for King *George*, and they for King *James* the Third.

Capt. & Jurat. 2° Die Nov. 1722. Coram me

Ch. Delafaye.

Degory Williams.

5.

My Lord, *March 31.*

THE incloſed being intercepted here, I was employed to tranſlate it into *French*, and believing it might be of Conſequence to your Lordſhip, I take the Liberty of ſending you this Copy, tho' I don't doubt but you will ſoon receive one from a better Hand. You will take this as a Mark of the Reſpect I owe you, and believe you will ſoon be convinced that the Author can be no mean Perſon. You may ſoon be further informed, and pleaſe to be aſſured of the ſincere Eſteem of,

My Lord,

Your Lordſhip's

moſt Humble and Obedient Servant,

W. F.

6.

R. W. Feb. 12. 172½. *Incloſed in one from* W. F. 31 March, 1722.

SIR, *Feb.* 12, 1721-2.

BOth your Letters of *Jan.* 22 and 29 came ſafe to hand. I thank you for the Opportunity the laſt of them gave me of an Acquaintance with the worthy Man that brought it, who ſeems to be an honeſt *Engliſhman*, and perfectly right in his Sentiments. However, obſerving that you had given me no Directions to enter as deep with him as I pleaſed, I forbore, and contented my ſelf to bemoan my Country in general, without diſcourſing him very particularly on any Methods that might be taken for its Relief. Shou'd he ſtay long enough here for me to receive an Anſwer to this from you before he returns to *France*, I ſhould be glad to know whether I may uſe greater Freedom with him. I ſee he is well inſtructed in the Intereſts and Deſigns of foreign Courts, but ſeems to have falſe Notions of our Ability here at home, in which perhaps your Opinion has helped to miſlead him.

I did upon the Receipt of yours diſcourſe 105, 215, and 309. As to 36 he is in the Country, and at a diſtance, ſo I can give you no Account of him; but we four are entirely of Opinion, that the Scheme propoſed of delivering our ſelves by our own Intereſt here at home is wild and impracticable.

We agree with you that the Reſentments of the People are every where very high, and that this Parliament has been conducted in juſt ſuch a manner as we could wiſh it for our Purpoſes, and that the Whiggs are broken amongſt themſelves both at Court and in the Country, and all ſorts of Men tired with the preſent Management and Managers; But you deceive your ſelves if you think, that all this put together will be of any real Effect towards compaſſing the Point: The Tories, on whom we muſt chiefly depend upon this Occaſion, are without Concert, and without a Head, and few of them are Men of any Capacity or Courage; their Zeal goes no farther than Talking and Healths, but I ſpeak it knowingly of the Chief of them, they tremble at the Thoughts of working out their own Deliverance, and uniting their Strength to that purpoſe. They have ſtuck together pretty well this Seſſion, in managing an Attack on the Miniſtry in the Houſe of Lords, but they mean nothing by it beſides expreſſing their Reſentments; and thoſe among them who intend any thing elſe, have private Views for themſelves. Between twenty and thirty of them have joined in this Attempt, and there are, I aſſure you, four or five different Sets of Men in that Number; the two Lords that are at the Head of them, *York* and *Cowper*, are as determined *Hanoverians* as any in the Kingdom, and only make Court to the Succeſſor inſtead of the Father.

In the Lower Houſe the Tories have done nothing, nay attempted nothing, this Seſſion; they are a Rope of Sand, there is no Union, no Spirit among them; ſome of them have managed at ſo cool a Rate, that there is great Reaſon to believe that they are ſecretly under the Influence of the Miniſtry; their Thoughts both within Doors and without are employed about nothing but ſecuring their approaching Elections.

You know my Intimacy with 59 and 84, whom I take to be Men of as great Honour and Bravery as any of that Party; I and 215 had three Meetings with them, and endeavoured to poſſeſs them with an Opinion, that it was poſſible for us to diſlodge theſe People by our own Strength, but they gave us ſuch Anſwers as ſhewed that neither they nor their Friends had ever in good earneſt entertained a Thought of it. They live in Expectation of ſomewhat that is to be done for our Reſcue, they know not when nor how, but have not the leaſt Imagination that we are able to do any thing for our ſelves, and they talk of the Tory Party on this Head with the utmoſt Contempt.

As to the Whiggs, tho' many of them have been loud againſt the Court in the *South-Sea* Affair, and have curſed the Miniſtry, *&c.* openly; yet it is plain their Reſentments begin to ſink, and the approaching Elections will ſhew that notwithſtanding their Anger and their Loſſes they will ſtick together, and rather chuſe to ſit down with that Part which remains to them in the Funds, than hazard all by a new Revolution. This, you may depend upon it, is the State of things here, and therefore 'tis in vain for you to expect any thing from us.

Corruption, Luxury and Indolence have taken univerſally ſuch hold of Mens Minds that they are in no degree capable of any great and noble Deſign, nor indeed willing to run any Danger. This being the Caſe, judge you whether it be worth your while to preſs us any longer upon that Head; turn your Thoughts rather towards ſerving the Cauſe, by perſuading thoſe about the Regent that he miſtakes his own Intereſt, if he neglects ours. I know your Power with 505, to whom the Cardinal liſtens; cou'd he

but be ſatisfied that *France* would certainly find its Account in ſuch an Attempt, and could not at the preſent Juncture fail of Succeſs, the thing might be done, 5 or 6000 Men would effect it, landing at any Place, at any time of the Year, whether the Parliament be up or ſitting, whether King *George* be at home or at *Hanover*.

The Regent has managed wiſely towards holding the Reins ſtill in his own Hands, even after a Majority; but can he be ſure of it? may not ſome Accident happen to reſtore an injured Prince, without his Aſſiſtance? and will he not then wiſh that he had merited his Friendſhip, and perhaps ſtand in need of it on very important Occaſion? I do not deſpair but ſooner or later he may be brought to reliſh this ſort of Reaſoning; if he does not, there is no Hope, as far as I can ſee, from any other Power upon Earth.

And without ſome conſiderable Help from abroad, not a Man here will ſtir towards reſcuing his Country. I ſpeak what I throughly know, 'tis in vain to uſe Diſguiſes in a Matter of this Conſequence. I am going into the Country about a Month hence, and do not think of returning to Town till next Winter. In the mean time, when any Letter comes from you directed as before, I have taken Care that it ſhall be ſafely conveyed to me. I am, with a moſt entire Regard,

Sir,

Your ever Faithful

and Obedient Servant,

R. W.

Since the writing of this, 84 has been with me, and inform'd me of a Matter which will convince you how low our Politicks are ſunk, and what ſtrange Thoughts Men are driven into, for want of any thing more ſolid and reaſonable to reſt on; 'tis meerly to ſet this Point in a ſtrong Light to you, that I add the following Account, with which otherwiſe I ſhould not have thought it worth while to have troubled you.

I have only my ſhort Cypher of ſome Names now by me, and therefore muſt give you the Account in plain *Engliſh*; and I the rather venture to do it, becauſe there is no Danger of ſpoiling the Scheme by a Diſcovery.

He ſays a Friend of his who was concerned in the laſt Tranſactions with the *Czar* ſome Years ago, has undertaken to renew that Correſpondence, and thinks he may ſucceed in it by ſome thing that has fallen from Prince *Dolhoruky* in a Diſcourſe, of which an Acquaintance of his in *France* has juſt now inform'd him.

The *Czar*, he thinks, having his Hands now free, may be perſuaded to enter upon ſuch a glorious Attempt by the Way of *Scotland*, and may propoſe to himſelf great Advantages, if he ſucceeds, by the Aſſiſtance our Squadrons may give him towards proſecuting his Deſigns in the *Baltick*, and on the Continent, to which the *Engliſh* Fleet hitherto has been the great Impediment. I asked 84 whether this Overture had been made with the Privity of the *Scots* Chiefs abroad? He ſaid, he believed not, but there was no doubt of their Concurrence. I will not trouble you with the Objections I made, which he was in no ſort prepared to anſwer. Upon the whole, I look upon it as an Amuſement or Dream, rather than any ſerious Deſign, and as ſuch I ſend it to you, with my repeated Requeſt, That you would apply your ſelf to forward at the Court of *France* what I have urged before in this Letter, if that Point be poſſible to be gain'd; if it be not, I am ſatisfied all other Views are Chimerical, and we muſt ſit down contented under our preſent Yoke, till ſome new Change in the Affairs and Intereſts of *Europe* ſhall open a way towards our Deliverance; for you may depend upon it (to end as I began) that we are abſolutely diſpirited and ſubdued here at home, and neither can nor will attempt to do any thing for our ſelves.

This is not my ſingle Opinion, for I know not a Man of Conſequence here that does in good Earneſt think otherwiſe; tho' to humour the Paſſions of indiſcreet Men, we are forced now and then to uſe another ſort of Language.

Copy

7.

Copy of the Orders to Captain William Arnold.

Capt. Arnold, *March* 9, 1721-2

WE appoint you Maſter of our Ship *Phineas* Galley, whom we have let to Freight to Mr. *Roger Nowel*, whoſe Orders you are to follow during this Voyage, adviſing us of your Arrival at any Port you ſhall arrive at: We wiſh you a good Voyage, and are

Your Friends

Tho. Bowles,
Fran. Colſton.

This is a true Copy of the Orders I had from Mr. *Tho. Bowles* and Mr. *Francis Colſton*.

William Arnold.

March 18, 1722-3.

8.

The Examination of John Leadwell *of* Greenwich, *in the County of* Kent, *Coachman*;

WHO ſays, That in the beginning of *March* 1722, or thereabouts, Captain *Halſtead*, who lodges at *Greenwich*, hired a Coach of the Examinant's Maſter *Richard Bird*; that the Examinant took him up at the *Naked Boy* at *Greenwich* aforeſaid, where the ſaid *Halſted* lodged, and brought him to the Earl of *Litchfield*'s in *York-Buildings*; thence to the Biſhop of *Rocheſter*'s Lodgings at the Deanry at *Weſtminſter*, where the Examinant waited upon him above an Hour; and from thence the Examinant carried him to the *Cocoa-Tree* in *Pall-Mall*; after ſome ſhort Stay there, the Examinant carried the ſaid *Halſtead* to the *Devil-Tavern* near *Temple-Bar*, where the Examinant underſtood he dined: Thence the Examinant went and ſet up at the *Croſs-Keys* in *Grace-Church-Street*, whither the ſaid *Halſtead* came to the Examinant about five or ſix a Clock, and the Examinant carried him home to *Greenwich*.

The Mark of
Q
John Leadwell.

Capt. & Jurat. 5° Die Aprilis 1723. *Coram me*

Ch. Delafaye.

9.

The Depoſition of Iſaac Megault, *Footman to the Right Honourable the Lord* Londondery;

WHO ſaith, That being ſome time the laſt Summer at *Paris* attending his Maſter the Lord *Londondery*, Mr. *Crawfurd*. his Majeſty's Reſident at *Paris*, told him that he wanted to employ him, to find out a Gentleman by a Direction of a Letter, which he would

would give him, and asked him whether he would go upon that Buſineſs; which this Deponent having agreed to do, Mr. *Crawfurd* accordingly gave him a ſham Letter, the Direction of which this Deponent remembers not; and ordered him to go to Mr. *Waters*, a Banker at *Paris*, with the ſaid ſham Letter, to know where the Gentleman lived, to whom the ſaid Letter was directed: Upon which this Deponent, the better to cover his Deſign, booted himſelf and went to the ſaid Mr. *Waters*'s Houſe, where finding not Mr. *Waters*, he apply'd to his Clerk or Book-keeper, telling him he was juſt arrived from *England* with a Letter, which he this Deponent ſhewed him, and deſired the ſaid Clerk to direct him where he might find the Gentleman to whom the ſaid Letter was directed: the ſaid Clerk making ſome Difficulties to give this Deponent the Direction, telling him he would take Care to deliver the Letter himſelf; this Deponent told him, he was ordered to deliver the ſaid Letter into the Hands of the Perſon to whom it was directed, and begg'd of him that he (the ſaid Clerk) would acquaint him where he ſhould go to deliver it; upon which the ſaid Clerk took the Letter fron this Deponent's Hands, and wrote upon the Back of it a Direction, which this Deponent remembers was in *French*, and was to Monſieur *Dillon*: This Deponent having got the ſaid Direction, carried it immediately to Mr. *Crawfurd*.

Iſaac Megault.

Capt. & Jurat 15° Die Martii $17\frac{22}{23}$. *Coram me*

Carteret.

10.

The further Depoſition of Iſaac Megault, *Footman to the Right Honourable the Lord* Londonderry;

WHO being ſhewn a Paper folded up in the ſhape of a Letter, directed *A Monſieur Monſieur Digby à Paris*, and in another Hand *Monſieur Dillon rue Colombier à l'Hotel d'Hollande*, and asked whether that is not the Sham Letter which Mr. *Crawfurd* His Majeſty's Reſident at *Paris* gave him, as is mention'd in his former Depoſition of the fifteenth Inſtant, he anſwers, that upon ſight thereof he does perfectly recollect that the ſaid Sham Letter was directed *à Monſieur Monſieur Digby*, and that from the manner of its being rumpled and ſully'd, which he did himſelf the better to colour his Deſign, he does verily believe the ſaid Paper now produced to be the Sham Letter which he received from Mr. *Crawfurd*, and ſhewed to Mr. *Waters*'s Clerk or Book-keeper, as is mentioned in his ſaid former Depoſition of the fifteenth Inſtant.

Capt & Jurat 21 Die Martii, $17\frac{22}{23}$. *Coram me*

Iſaac Megault.

Ch. Delafaye.

11.

The further Depoſition of Mrs. Elizabeth Levet;

WHO ſays, that about two Years ago Mrs. *Barnes* acquainted this Deponent, That *George Kelly* alias *Johnſon* told her the ſaid *Barnes*, he the ſaid *Kelly* was very intimate with the Biſhop of *Rocheſter*, and did often go to the ſaid Biſhop's Houſe, of which for a particular Reaſon ſhe the ſaid *Barnes* was deſirous to be ſatisfied, and then deſired this Deponent to enquire into the Truth of it; and that afterwards the ſaid Mrs. *Barnes* told this Deponent that ſhe had found it out her ſelf, for that the ſaid *Kelly* had ſhewn her ſeveral very kind Letters under the ſaid Biſhop's own Hand, inviting him the ſaid *Kelly* to dine with the ſaid Biſhop; and that one time the

ſaid

ſaid Biſhop ſent to invite the ſaid *Kelly* to dine with him, and that he did dine with him accordingly; and that the ſaid *Kelly* told her the ſaid Mrs. *Barnes* that at a time there dined with the ſaid Biſhop a good Number of Clergymen, and that the Company had all Gowns on, except him the ſaid *Kelly*: alſo, that another time the ſaid Biſhop had invited the ſaid *Kelly* to Dinner, but ſome Accident prevented his going, at which the ſaid Biſhop was ſo much concerned, that he ſent the next Morning to enquire after him, as fearing he had been taken ill. That the ſaid Mrs. *Barnes* did one Morning at her own Houſe in the Fore Parlour tell this Deponent that the little Dog *Harlequin* was ſent by the Lord *Mar* to the Biſhop of *Rocheſter*'s Lady; but ſaid to this Deponent (for God's ſake don't tell any Body of it.) That about two Years ago the ſaid Mrs. *Barnes* lodged in *Gerrard Street*; and that this Deponent viſiting her there, ſhe the ſaid *Barnes* told this Deponent that the ſaid *Kelly* (whom ſhe then called *Johnſon*) had that Day received as many Letters from beyond Sea as came to Fourteen or Fifteen Shillings, and that ſhe would make him ſhew her the ſaid *Barnes* the Superſcriptions; but the Directions were to ſuch Cramp Names, and not to the real Names of the Perſons for whom they were intended, that the Devil could not find out who they were for, nor any Body but he *Kelly*, who had the Key to them; but that there was among them a Letter for the Biſhop of *Rocheſter*, as the ſaid *Kelly* told her; and that he the ſaid *Kelly* was gone to carry it to him. That Mrs. *Barnes* before-named told this Deponent, that the ſaid *Kelly* came from *France* in *October* laſt was Twelve-month, and ſhewed this Deponent a fine Fan and a ſet of Tortoiſe-ſhell Combs, which ſhe ſaid he the ſaid *Kelly* had brought over with him as a Preſent to her the ſaid *Barnes*, and ſhe then gave this Deponent a Medal, which ſhe ſaid *Kelly* had brought over with ſeveral others from *France*; and that on one ſide thereof were the Heads of the Pretender and his Conſort, and on the other ſide was *Britannia* holding their Son, with the Inſcription, *In Britannia I truſt*. That the ſaid Mrs. *Barnes* told this Deponent about the time when the Pretender ſent over a Declaration, intimating that his Conſort was with Child (which this Deponent believes was about Two Years and a half ago) that the ſaid *Kelly* had owned to her the ſaid *Barnes* that he had a Penſion of One Hundred Pounds a Year from the Pretender. The Deponent farther ſays, that ſince the ſaid *Kelly* and *Barnes* were firſt taken up, ſhe the ſaid Mrs. *Barnes* has told the Deponent that the Government would ſtarve the ſaid *Kelly*, for they intercepted all the Letters that he ſent, or that came to him, that he could get no Bills; upon which this Deponent ſaying, that then he the ſaid *Kelly* would be little the better for having burnt his Papers, ſhe the ſaid *Barnes* anſwered, that the ſaid Letters were written in ſuch a manner that let the Government intercept what they would they could not make out the Meaning of them, or to that effect. That on *Whitſunday* the 13th of *May* laſt, the ſaid Mrs. *Barnes* told the Deponent that ſhe had on the Day before made the ſaid *Kelly* ſearch his Pocket Book, and burn the dangerous Papers that were in it, and promiſe to do the like by thoſe he had in his Lodgings. Upon which this Deponent ſaying, Sure he did not carry any ſuch Papers about him; the ſaid Mrs. *Barnes* replied, Yes, he uſed to carry about him what would hang him and half a Thouſand more, or to that effect. That at the time the ſaid Mrs. *Barnes* lived in *Gerrard Street* as before-mentioned, ſhe told this Deponent that the ſaid *Kelly* was in great Danger, for that there was a Man intruſted with all their Secrets who threatned to inform the Government unleſs they gave him Two Thouſand Pounds; but ſhe the ſaid *Barnes* had adviſed the ſaid *Kelly* that the ſaid Money ſhould not be given to the ſaid Man, for when he had that, he would nevertheleſs give ſuch Information, but they ſhould contrive to ſend him beyond Sea; and ſome time after the ſaid Mrs. *Barnes* told this Deponent that Care had been taken to put that Man out of the Way, that he ſhould tell no Tales, or to that effect. And that the ſaid *Barnes* at another time told the Deponent the like had been done by divers other Perſons, who were ſuſpected by the Jacobites to be diſpoſed to make Diſcoveries (meaning of their Treaſonable Proceedings) and expreſſed a great Concern at her the ſaid *Barnes*'s being engaged with ſuch ſort of People, as what might bring her into Danger as well as the Deponent, if they ſhould know that ſhe the ſaid *Barnes* had diſcovered ſuch Matters as ſhe had done to the Deponent; and that the ſaid Mrs. *Barnes* told the Deponent, that above Two Hundred Perſons had on ſuch an Account been taken Care of in ſuch manner, that they would never ſee the Light, or to the like effect. The Deponent farther ſaith, that the ſaid Mrs. *Barnes* when ſhe lived in *Gerrard Street* told her, Mr. *James Talbot* was gone to *Ireland* to give Notice to the Party (meaning the Jacobites) how things were in *England*, that they might be ready for a Riſing in *Ireland* to divert the Troops that might be ſent hither from thence; That his the ſaid *Talbot*'s Journey to *Ireland* had been delayed by the want of Money, but ſhe Mrs. *Barnes* had advanced him Fifty Pounds on that Account, which the ſaid Mrs. *Barnes* afterwards told the Deponent he had repaid her ſince his Return from *Ireland*. The Deponent ſays that the Perſons

whom ſhe has heard the ſaid Mrs. *Barnes* mention to be moſt intimate with the ſaid *Kelly*, were his Couſin *Dennis Kelly*, the Biſhop of *Rocheſter*, Sir *Harry Goring*, Mr. *Gunning*, Mr. *Talbot*, and an *Iriſh* Phyſician whoſe Name this Deponent doth not remember.

Jurat 30° *Die Martii*, 1723. *Eliz. Levett.*
Coram me
Ch. Delafaye.

12.

The further Examination of John Malone;

WHO ſays, that he very well remembers the Perſon of Mr. *James Talbot*, who uſed to viſit Mr. *George Kelly*, alias *Johnſon*, as is mentioned in his former Examination; that the ſaid *Talbot* is above the middle Stature, pretty thick ſet, paliſh Complexioned, ſome Pock-holes in his Face, and commonly wears a black Peruke, has black Eye-brows; that he was particularly acquainted with the ſaid *Talbot*'s Servant. That ſome few Days before the 19th of *April*, 1722, about which Time this Examinant firſt left Mrs. *Barnes*'s Service, he heard that the ſaid *James Talbot* and his Servant were gone out of Town, and that in three or four Days after his firſt leaving Mrs. *Barnes*, as before-mentioned, this Examinant returned into her Service, and ſtay'd with her a Fortnight or three Weeks; yet during all that Time he never ſaw the ſaid *James Talbot*, who uſed before frequently to viſit her, nor the ſaid *Talbot*'s Servant, nor has he ſeen them at any Time ſince. Being asked to recollect whether he has carried any Letters for the ſaid *George Kelly* to the Poſt-Office or Receiving-Houſe, and what Directions were upon ſuch Letters, he ſays he has carried Letters for him to the Poſt, and does remember ſome of the ſaid Letters were directed to Monſieur *Waters* at *Paris*.

Capt. & Jurat. 5° *Die Aprilis*, 1723. *coram me*, *John Malone.*

Ch. Delafaye.

13.

The Examination of John Flower, *living in* Gardiners-Lane, King-Street, *in the Pariſh of St.* Margaret's, Weſtminſter, *Chairman*;

WHO ſays, he perſonally knows Mr. *Johnſon*, alias *Kelly*, now a Priſoner in the *Tower*: That about four Years ago, when the ſaid *Johnſon*, alias *Kelly*, lodged at Mrs. *Barnes*'s in *Pall-Mall*, this Examinant has ſeveral Times carried him to the Biſhop of *Rocheſter*'s Lodgings at the Deanry at *Weſtminſter*: And that he has alſo carried Letters from the ſaid *Johnſon*, alias *Kelly*, to the ſaid Biſhop, which Letters he uſed to deliver at the Biſhop's Lodgings aforeſaid.

Capt. & Jurat. 5° *Die Aprilis*, 1723. *John Flower.*
Coram me,
Ch. Delafaye.

The

14.

The Examination of Francis Vanlear, *lodging at Mr.* Jeffereys's, *at the* Crown *Ale-Houſe in* Germain-Street, *Porter*;

WHO ſays, he has for about four Years paſt ply'd in St. *James*'s-*Street* and *Piccadilly*; that he has known Mr. *George Kelly*, who went by the Name of *Johnſon*, about two Years and a half: That when he firſt knew the ſaid *Johnſon*, alias *Kelly*, he lodged at Mr. *Lewis*'s, a Barber, over-againſt *Old Bond-Street* in *Piccadilly*. That he has frequently gone of Errands for the ſaid *Johnſon*, alias *Kelly*, and has carried ſeveral Letters from him to divers Perſons, particularly to one *Bingley*, who then lodged at a Glazier's Shop in *Bulling-Court* in the *Strand*; that he has twice carried Letters from the ſaid *Johnſon*, alias *Kelly*, to the Biſhop of *Rocheſter*'s in *Weſtminſter*. The laſt Time, to the beſt of his Remembrance, was laſt *Chriſtmas* was Twelve-month; that he then carried, beſides a Letter, two Pair of Stockings for the Biſhop; and that he did both Times bring back the Biſhop's Anſwers ſealed: That he has alſo come of Meſſages from the ſaid *Johnſon*, alias *Kelly*, to Mr. *Kelly* at the *Cockpit*; That he was once ſent by the ſaid *Johnſon*, alias *Kelly*, to *Chelſea*, to borrow a Pair of Boots for him; That the ſaid *Johnſon*, alias *Kelly*, was out of Town about this Time Twelve-month; and the laſt Money the Examinant earned of him was in carrying his Horſe home, when he returned from that Journey: That the Examinant took the ſaid Horſe from the *White Horſe-Inn* in *Piccadilly*, and carried it to Mr. *Gunning* at *Muſſell-Hill*, from whom he underſtood the ſaid *Johnſon*, alias *Kelly*, had borrowed it; That the Examinant cannot now recollect the exact Time when he carried the ſaid Horſe home to *Muſſell-Hill*, but remembers he went from *Piccadilly* about four in the Afternoon, and that it was dark by the Time he got back again; That the Examinant remembers the ſaid *Johnſon*, alias *Kelly*'s going out of Town, ſince he came to lodge in *Riders-Street*; and the ſaid *Johnſon*, alias *Kelly*, ordering him to carry his Portmantle to Mrs. *Barnes*'s in *Bury-Street*, in which he had put ſpare Linnen as for a Journey; the exact Time this Examinant cannot remember, but believes it to be rather more than a Twelve-month ago: The Examinant ſays, he does not remember the ſaid *Johnſon*, alias *Kelly*'s Riding abroad, except the Time above-mentioned. The Examinant further ſays, that the Time that he went to the Biſhop of *Rocheſter* from the ſaid *George Kelly*, and carried two Pair of Stockings, his Lordſhip being ill of the Gout, ſent for the Examinant up into his Chamber, and gave him a Note for the ſaid *Kelly* ſealed up, and paid him for his Trouble.

Capt. & Jurat. 8° *Die* Aprilis, 1723. *coram me*, Ch. Delafaye.

The Mark of *Francis* ſ *Vanlear.*

15.

The Depoſition of Alice Gardiner, *living in* Weſtminſter *Market in the Pariſh of St.* Margaret's Weſtminſter, *Widow*;

WHO ſays, that on *Friday* the 26th of *October* laſt, *George Kelly*, then a Priſoner in the Cuſtody of *Daniel Chandler*, one of his Majeſty's Meſſengers, and kept at her Houſe, being returned from the Secretary's Office, where ſhe underſtood he had been Examined before ſome of the Lords of the Council, and the Deponent being in his Room, attending him and making Tea for him, the ſaid *George Kelly* told her he ſhould be very well contented to ſtay with her ſuch time as his Confinement ſhould laſt; the Deponent thereupon ſaid ſhe was glad he liked his Entertainment there ſo well, and ſhe hoped it would be ſo; to which he replied No, he feared he ſhould go elſewhere, to the *Tower* or to *Newgate*. Then he asked her if ſhe would not be ſo good-natured as to let him make his Eſcape, and offered her his Gold Watch and Forty Guineas, which he had laid down upon the Table; which ſhe refuſing to accept of, he told her if

if that was not enough he would give her a Note for Forty Guineas more; but ſhe told him all his Offers were to no Purpoſe; that if ſhe or her late Husband would have liſtened to ſuch Offers, they had Temptations enough laid in their Way, or to that Effect; and upon this Occaſion ſhe did inſtance to him an Offer that a *Scotch* Gentleman had made to her late Husband, of giving him a Bribe of a hundred Guineas to let him make his Eſcape.

Alice Gardiner.

Jurat 9° die Aprilis 1723.
Coram me
Ch. Delafaye.

16.

The Depoſition of John Gardiner, *living with his Mother* Alice Gardiner, *in* Weſtminſter *Market, in the Pariſh of St.* Margaret's, *Widow*;

WHO ſays, that *George Kelly* alias *Johnſon* being ſeized on the 23d of *October* laſt by Mr. *Chandler* the Meſſenger, was by the ſaid *Chandler* brought to his Mother's Houſe, the ſaid *Alice Gardiner's*, to be there kept in ſafe Cuſtody; that when the ſaid *Kelly* had been there two or three Days he attempted to Corrupt this Deponent, and offered him Twenty Guineas and his Gold Watch to let him make his Eſcape, but the Deponent would not give Ear to any ſuch Propoſal. That on the Day when the ſaid *Kelly* was committed to the *Tower*, he called the Deponent up into his Room, and lifting up a Napkin that lay upon the Table, ſhewed him a Gold Watch and Forty Guineas which lay under the ſaid Napkin, and told the Deponent he had offered all that to the Deponent's Mother to ſuffer him, the ſaid *Kelly*, to make his Eſcape, and he was very ſorry ſhe would not take it, for he expected the Meſſengers every Moment to come for him, to carry him to *Newgate*, and then it would be too late; and that the ſaid *Kelly* appeared to be under a great Concern, and trembled; and that the Deponent made him no Anſwer but went down Stairs, leaving him in his Room.

John Gardiner.

Jurat 8° die Aprilis 1723.
Coram me
Ch. Delafaye.

17.

The Depoſition of Guſtavus Bâhr, *of the Dutchy of* Bremen, *late Captain in the Service of the Crown of* Sweden;

WHO voluntarily cometh before me, and maketh Oath, That in the Month of *December* 1721 he arrived at *Cadiz* from *Gottemburgh*, on board a *Sweediſh* Frigate of 24 Guns, called the *Fortuna*, which was to go to *Madagaſcar*, in Company with two other Ships belonging to the Pretender; that one of the ſaid Ships was called the *Revolution*, and the other the *Lady Mary*; That the *Revolution* carried 40 Guns, and was commanded by Captain *Galloway*, alias *Gardiner*, Nephew of Colonel *Morgan*. That there were on board the ſaid Ship a ſecond Captain, whoſe Name was *Wutkerſon*, two Lieutenants, *viz. Franklyn*, and one more whoſe Name this Deponent remembreth not, and alſo young *Morgan*, Colonel *Morgan's* Son. That the *Lady Mary* carried 24 Guns, and was commanded by Captain *Campbell*. That this Deponent was at the Time above-mention'd acquainted at *Cadiz* with Colonel *Morgan*, who together with one *Hilton* a *Scotch* Man were intruſted with the Management of the Pretender's Affairs at *Cadiz*, and had the Direction of his Ships. That the ſaid Ships were there under the Notion of Merchant Ships belonging to *Morgan*, and carried *Engliſh* Colours. That the ſaid *Hilton* was at *Cadiz* before this Deponent's Arrival there, and

that

that Colonel *Morgan* came into the Bay of *Cadiz* on board the *Lady Mary* from *Morlaix* in *Brittany*, a few Days after this Deponent was arrived there. This Deponent further ſaith, that alſo ſome Days after his Arrival at *Cadiz* there came in from *Gottemburgh*, and laſtly from *Morlaix*, the *Fortune*, commanded by Captain *Butler*, a 14 Gun Ship, belonging to the Pretender. That the ſaid Captain *Butler* quitted at *Cadiz* the ſaid Ship, expreſſing ſome Diſcontent to this Deponent on account of his not having a large Ship to command, as well as *Campbell* and *Gardiner*. That there were on board the ſaid *Fortune* 1000 Muskets, 1000 Carbines, 2000 Bayonets, 300 Barrels of Powder, beſides a Quantity of Match, Flints, &c. As alſo 1000 Muskets and 100 Barrels more of Powder, which Count *Rhentierna* the *Swediſh* Reſident at *Hamburgh* had ordered to be put on board the ſaid Ship on his own Account: That all the Arms and Ammunition above-mention'd were delivered to Colonel *Morgan*, *viz.* Count *Rhentierna*'s by his Agent, and the others by this Deponent himſelf, and were all put on board the *Lady Mary*; that whilſt this Deponent was at *Cadiz* Colonel *Morgan* went to *Madrid* to get Money from the late Duke of *Ormond*, who gave him 12000 Pieces of Eight, which were employed by the ſaid *Morgan* for fitting out the *Revolution* and the *Lady Mary*. That the ſaid *Morgan*'s Correſpondent at *Paris* was *Waters* the Banker, with whom he uſed to tranſact Money Affairs. That when this Deponent paſſed thro' *Paris* in the Month of *April* 1722, in company with Mr. *Seabach* a *Swediſh* Colonel, he was told by him that the ſaid *Waters* and an *Engliſh* Gentleman, who is a Colonel in the *French* Service, had asked the ſaid Colonel *Seabach* how he was pleaſed with *Morgan*'s Conduct; That *Seabach* had anſwered, he liked *Morgan* very well, but did not think *Gardiner* a fit Man for Enterprizes; upon which *Waters* and the ſaid Colonel in the *French* Service replyed, That if *Gardiner* was not liked another might be appointed in his room, and even that *Morgan* might be removed if it was neceſſary. That this Deponent has been informed, that the Pretender's Agents had a Number of Arms lodged in a Houſe belonging to the late Duke of *Ormond* near *Morlaix* in *Britanny*, ſufficient to arm about 3000 Men.

Capt. & Jurat. Die
10 *Aprilis* 1723.
Coram me

Carteret.

Guſtaſ Bâhr.

18.

Mr. Burchett's *Letter to the Lord* Carteret's *Secretaries.*

Gentlemen, *Admiralty-Office Dec.* 13, 1722.

I Am commanded by my Lords Commiſſioners of the Admiralty to ſend you a Copy of a Letter which I received this Morning from Captain *Scot* of His Majeſty's Ship the *Dragon*, giving an Account of his Proceedings at *Genoa*; as alſo an Original Letter from *Chriſtopher Hall*, dated at *Alicant* the 30th of *September* laſt, which I am to deſire you will pleaſe to communicate to the Right Honourable the Lord *Carteret*, his Majeſty's Principal Secretary of State.

I am,

Gentlemen,

Your moſt humble Servant,

J. Burchett.

Secretaries to the Lord *Carteret.*

19.

A Letter from Chriſtopher Hall *to* James Quinn, *dated* Alicant, 30*th* September, 1722.

Sir,

FInding my ſelf for ſome time paſt unexpectedly depriv'd of your Favours, and moreover little or nothing occurring at preſent worth remembrancing, will cauſe my being more compendious in this, which ſerves of the New to aſſure you of my ſincere Wiſhes for your Welfare; and at the ſame time take the Liberty to ſignify to you, that his Grace the Duke of *Ormond* ſent me ſome Days ago, by Hands of my Friends Meſſieurs *Joyes* and Company of *Madrid*, a Greyhound Dog and Bitch, to be remitted to Monſieur *Cagnoni* of your Place, to whom it ſeems they wrote about 'em; but underſtanding that ſaid Sieur *Cagnoni* has gone lately to live at *Naples*, doubt whether he has left any Body in his ſtead to manage his Affairs at *Legorn*; and in ſuch Caſe beg the Favour of you to take Care of the ſaid Hounds on their Arrival there, and attend the ſaid Sieur *Joyes* on my Advice to diſpoſe of 'em, tho' I believe may be deſigned for our Royal Maſter; and whatever you may reimburſe on their Account may value on me, or ſaid Gentleman. I have not time to add further than that you'll pardon this Trouble, and believe me to be on all Occaſions,

Sir,

Your humble Servant,

Chriſtopher Hall.

Lond. 49
Am. 95
Genoa 110 *per Cent.*
Madrid at Par.
Cadiz one per Cent. loſs to Bills.

P. S. The Dog is Black with a white Snout and Neck, and is called *Jopper*; the Bitch is Yellow, with a white Neck, Snout, and Fat, and is called *Jipſie*.

20.

A Letter from Francis Brown *to Captain* Andrew Gallway.

16*th October*, 1718.

Dear Sir,

YOUR Acceptable, dated laſt *Monday*, came to hand Yeſterday, tho' I ought to have had it *Thurſday*. Contents I duly Note.

Your far-off Project flatters: If the Undertaking could be brought to Perfection, 'twould put a Man in a little time above the Uncertainty that attends Court Favour, that's as uncertain as a Winter Day; but when I conſider that the Undertaking for the three Ships you mention require to have 500000 Livres in Bank e're undertook, and how far you are ſhort thereof, beſides the difficulty of getting 7 or 800 Men requiſite, which cannot be done without the Authority of the Regent, which certainly can't be obtained, as I conceive, becauſe of his Union with *G.* my Advice is you decline it at once; but if you'll not, let your Enterprize be in *Spain*, for here it would be impoſſible, and dangerous for your Friends, and ſuch as would appear in the Diſpatch; if on the other hand, you embrace the Offer made there, which I find both Reaſonable and Honourable with a Proſpect of future Advancement and Benefit, is what I would adviſe you to prefer. In ſuch Caſe, my Opinion is to get a Frigate built of 80 Foot long, 27 Foot broad, with the reſt in Proportion; one Deck, with a half Deck and Forecaſtle open, that will carry 24 Cannon, 6 Pounders, made entirely for ſailing, for tranſport-

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ing Perſon or Perſons of Conſideration, if that be the Deſign; or if to carry Packets or Meſſengers to get a ſmall Cowet of 4 to 8 Guns to attend all Motions.

I am overjoyed of the King's Marriage; the great God give the Bleſſing of *Abraham*, *Iſaac* and *Jacob*, and ſpeedy Reſtoration. Doth the Queen bring any conſiderable Fortune to the King? his Circumſtances require ſuch. My Reſpects to Mr. *Walton*: his Son parted laſt *Tueſday*, I ſent *Frank* to conduct him to *Dynan*, but being not as yet come back, he's gone further.

If you intend for *Sweden* or Coaſts of *Spain* on the Fiſhing Voyage, the *little Queen of Spain* will be fit, ſhe will ſtand to Sea well fitted, Men and Proviſions, 30,000 *l.* if proves leſs the better. All mine heartily ſalute. The Poſt preſſes you. I am ſincerely,

Dear Sir,

Your aſſured humble Servant,

Francis Brown.

21.

F. Brown *to Captain* Andrew Gallway.

Dear Sir, *St.* Malo, 23 Nov. 1718.

I Know not what to attribute your long Silence unto, if it be not in telling you ſincerely my Thoughts of the Arming the Three Veſſels you propoſed; I have not writ you of ſeveral Poſts, on Warning you gave me, 'twould be uncertain if they would overtake you in *Paris*. Some Time paſt I ſent Mr. *Waters* the Dimenſions of the Ship ſtill on the Stocks, deſiring him to deliver it to you, and adviſe me where you were. What I alway apprehended from the Court now appears, the Commiſſary received yeſterday Order from the Court to oppoſe the Sale of any Ships to Strangers, conſequently to give them no Expeditions, which makes me repeat unto you what I already writ you, that if you perſiſt on your Project, *Spain* muſt be the Place.

There went with Captain *Toulon* a Paſſenger, either *Swede* or *Polander*, a Man of Merit: Since his Departure came Orders from Above, to be informed if 'twas not the Duke of *Ormond* that went Paſſenger with *Toulon*; by which I find that Court is in Pain where he is, and fears him to be in *Spain*: 'Tis dangerous meddling with great Mens Affairs. I found an Occaſion here to diſpoſe of the *Juliet* Cargo Iron. I writ yeſterday to Madam *Walton*, to know the juſt Price to be deliver'd at *Roſcoff*; I expect her Anſwer *Sunday* next; 'tis to a Solvable Perſon, that will deſire little or no Time. If this comes to your Hands, do not fail to give me yours, or Mr. *Walton*'s Order how to proceed, fearing Madam *Walton* could not anſwer without hearing from Mr. *Walton*, or you. The Butter is ſtill unſold, 'tis not the Time of Sale; the late Rains and Continuance of fair Weather lowered it ſomewhat: If any Occaſion offers for its Sale from 28 to 30*l.* I'll let it go, if you order not the contrary in Anſwer.

Mr. *Langlin* gives out he expects a Parcel of new Butter; and a *Frenchman* expects ſome, as he tells me: I met *Langlin* yeſterday at the *Gate*, he ſeemed very inquiſitive where you were, and told me you owe him Two Thouſand Eight Hundred and odd Livres that he drew on you, or Mr. *Walton*; ſeemed much offended with his Correſpondent, for not returning him his Bill, Proteſted, or Accepted; that he expects it to-morrow, whereby to take his Meaſures: You know the Man, he undertaking, *&c.* for your Government. If you owe it him, 'tis better end with him: I am ſenſible that Affair is the moſt unfortunate that I have heard of, that not ſufficient. *Mannery* is here in a diſmal Condition, and ſome other Men you ordered to expect your Return are very impatient, and refuſed good Wages of Captain *Toulon*.

Is our King married, or is the Princeſs intercepted? You are unkind on this Subject. You know how ſenſible what regards him is to me. As to other News, I deſire but what you think fit to impart. My Family joyns with me in giving you and Mr. *Walton* our beſt Wiſhes and Reſpects. If you have no Occaſion for *Frank* at St. *Paule*, order him home; it troubles me he ſhould be ſo long a Charge to Mr. *Walton*. I am really

Your aſſured humble Servant,

Francis Brown.

Morgan

22.

Morgan *to* Gallway.

9th January.

YOU have, my dear *Gallway*, incloſed, a Letter from your Brother, I think: I had a great Mind to open it; for I believe it is to tell you, that he will do you all the Injury he can; at leaſt I am afraid ſo. Our Friend came here laſt Night; he told me, that Capt. *Gall.* and his Wife were with his Nephew, and with all his Friends that were in *Holland*; they gave ſuch an Account of you that you expected: In ſhort, this Gentleman was under a thouſand Difficulties; but *South*, *Diſt.* and *Waters* has ſatisfied him to that degree, that he is now more bent upon the Buſineſs than ever; and he aſſures me, he will get a good Horſe where he is going, to joyn your two Horſes, if you can get two; or, if you can get but one Horſe, he will ſtill go with you. There is no Need of telling you what that Man and his Wife ſaid of you; but I am afraid they will turn Informers indeed; and I fear your Brother is a little in Fault: But *Creagh* is a Villain, and ſo have nothing to do with him. I writ to Mr. *Brown* what you will ſee; and I writ to *Norx*, where I told him, that the Condition he was in was the Reaſon I had for ſupporting him: I think you ſhould not ſee him, or take any Notice of him, unleſs you can reſolve to do as I do, that is, not to inſult a Man in Diſtreſs.

I believe you will have Letters from *Waters*, to tell you what Money you may draw for, though I know it is not yet ready: *If you can keep your Bargain in your Hand, it will be your beſt Way not to cloſe 'till you ſee this great Storm* (that is now in *Paris*) over. *I thought I ſhould hear from you laſt Night.*

I have nothing elſe to ſay to you at preſent, but could wiſh you were more Maſter of your Paſſion, and that would enable you to carry on your Affairs with more Security and Eaſe.

I had a Letter laſt Night from *Montagu* full of Aſſurances.

I am yours. Adieu.

23.

Morgan *to* Gallway.

Dear Couſin, *5 March, 1719.*

I Told you in my laſt that I would ſend you a Letter to deliver to Mr. *Langlin*, which you have here incloſed, I pray deliver *it*, that I may be eaſy upon that Head, for as I already writ you Word, I cannot be eaſy when I am involved in other Peoples Affairs, that I am ſo much a Stranger to; and ſhould any thing happen either to you or my ſelf, it would be barbarous in me to leave my young Children dipt in Law Suits without any View of being able to ſuſtain it; for if Mr. *Langlin* ſhould have any Crick in the Law to make me pay him two thouſand Livres on this Account, I am ſure he may as well demand ten thouſand, for I cannot contradict him: You know two Years ago I offered to make this Matter plain before *Pat. Gallway* and your Brother, and clear my ſelf of it, had you not hindred me by ſaying it would reflect upon your Reputation. I expect this Day's Poſt in every Moment, and then I'll write more to you, but this I write to have it ready to ſend this Night to *Morlaix*.

Yours. Adieu.

This Poſt has brought me no Letters either from you or any Body elſe, only Mr. *Waters* prays you to write me Word what is the Sum you will want to make up the Price of the Ship, and if it can be drawn at three Uſances. The Friends in *England* that ordered us to depend upon them for 50,000 *l.* are ſo alarmed at this Revolution, that they tell us they cannot yet return us any Money. I fear we ſhall fall ſhort about Six or Seven thouſand Pounds to fit out this Ship. I ſhall ſay more when I have an Anſwer of my Letters from *Paris*. Our humble Service to all Friends, *&c.*

We are all Yours.

From

24.

From Morgan *to* Gallway.

March 10.

YOURS, dear *Andrew*, of *Good-Friday* I have. I was in Hopes the Weſterly Winds that we had here would reach you there, to carry your Men to *Joyce*, but in ſhort we muſt be content, and we know not what is beſt for us. I ſhall be glad you will prepare every thing to ſettle with *Roziere* about the Price of the Ship. See what Bills you muſt draw, and ſee what Time he will give you. Pray, my Dear, make a little Calculation what Money will be abſolutely neceſſary for you in the whole.

Do not be in the Spleen: you may depend things will go on to your Satisfaction. I thank you for your News from *Dublin*; pray if any Ships comes in there, ſend me always what News you hear, and enquire ſtrictly of any Ships that comes from that Country where *Rigg* went to, for twixt you and I they are to ſend us Help; in ſhort, every thing is as you would wiſh it. I wonder we do not hear of the late Duke of *Ormond*, but I believe he is either drove W. S. W. from *England*, or elſe he is gone round *Ireland*. You may depend he was ſeen off of *Cape St. Vincent* the 7th in the Morning. All the Ships upon the Coaſt had Orders to join them as they ſaw them go by, they had a board 7000 Men and 40000 Fuzees, *&c.* Chevalier St. *George* Landed in *Catalonia* the 8th and went ſtrait to *Madrid*.

I had a Letter from *Dick Rich* from *Dublin*, which came by that Ship to St. *Malo's*, he gives you his Service; his Father is dead, and left him quite out of his Will; his Brother *James* is in *London*, and his Brother *John* gone up the *Straits* with a Ship of 12 Guns in which he has one third: He tells me, they are tranſporting the *Iriſh* Forces to *England*. A Week or ten Days will give us more fully an Account of this Commotion.

I will write to *Paris* what you hinted to me concerning the *Engliſh* Fleet. My humble Service to Mr. *Brown* and all Friends; all here wiſh you a happy *Eaſter*.

How are Proviſions in *Ireland*? *Adieu, Dear Couſin.*

25.

A Letter from Edward Brown *to* Gallway.

Mr. *Andrew Gallway*, *Paris*, *June* 13, 1719.

SIR,

I am favoured with your moſt Accept of the fifth Currant, and am moſt recognoiſant to you for your kind and friendly Expreſſions, and being you prove ſo favourable to me (which I only attribute to an Effect of your Goodneſs) I ſhall always endeavour by my Carriage to deſerve the Continuation of your Good-will and Friendſhip; and tho' I ſhould ſhun making my own Apology, I dare tell you I have a good Heart, and incapable of that monſtrous Fault of Ingratitude.

Your Gentlemen here have come to no Reſolution about our Affair; and I believe as they are Strangers to Trade, 'twill be hard for them to have the ſame Senſe or Idea of the Voyage we have our ſelves, and conſequently make them give ſome Excuſe not to let go their Money. I am perſwaded Mr. *Waters*, of his Side, does what he can to bring them to it, tho' I really deſide Matters will take. I obſerve you expect your Ship from *Oſtend* on that Coaſt, and that you may probably take a Trip to S. If ſo, we can no farther think of our Project, for you cannot propoſe to fit elſewhere but in *Oſtend* for the C. Voyage. If at your coming to *Spain* you meet the D. of *O.* and that he can facilitate your going to the *S. Sea*, under the Pretext of a Cruizer, with a Permiſſion to carry Goods, and under *Spaniſh* Colours, you'll do well to ſtick rather to that Project than to the other; but if you come to *Cadiz*, let none of your Countrymen know your Deſigns, nor none elſe, altho' you are ſure of getting the Grant; but pray acquaint me with the Proſpect you may have of Succeſs therein, and if it be requiſite (to give you the quicker Diſpatch, or to get the Permiſſion drawn with ſuch Clauſes as may exempt you of all Search coming to the *S. Sea*) my going over on your Advice, I'll diſpoſe my Affairs, and make the beſt of my Way to you; all depends of getting the Permiſſion, to which Purpoſe you muſt ſpur the Duke of *O.* and endeavour, if poſſible, to induce him to deſire our K. to ſpeak himſelf, or write to the K. of *Spain*, or Cardinal; and once the Permiſſion given, I take upon my ſelf to load the Ship, and make up an Amplet with the Friends I'll bring concerned of 100000 Pounds Sterling, which ſhall be addreſſed to you and them we think fit to ſend with you for the Management of the Sales, for I conſider you cannot take the whole Management upon your ſelf without one or two good Aſſiſtants. When

you go to *Cadiz* you'll find ſeveral very inquiſitive and deſirous to know your Affairs, but deſide of many; and when I know poſitively you intend thither, ſhall write to my Partner Mr. *John Smidt*, to receive you in our Houſe, and inſtruct him how to manage with you to diſſemble beſt your Affairs, until your Permiſſion be obtained, and my ſelf back in *Cadiz*. If the Voyage takes, your Fortune will, I hope, be made thereby, and I no Loſer, therefore I cannot ſufficiently recommend to you to make your Court to theſe great Men your Friends, untill they compaſs this important Affair. When you come to *Spain*, addreſs for me at *Bruges*, at Mr. *Andrew Brown*'s my Father, who will take care to ſend me your Letters, tho' I be not there. I cordially ſalute you, and pray you'll aſſure my Uncles and Couſins of my beſt Reſpects, and am,

Dear S I R,

Your ever aſſured, obliged and humble Servant and Friend,

Ed. Brown.

I'll part this about the latter end of the Month.

26.

A Letter from John Obrien *to Captain* Gallway, *dated* Paris, 12 April, 1721.

Dear Sir,

THough we have not correſponded one with another ſince you parted hence, I can with Truth aſſure you, that my true Love and Eſteem for you are not in the leaſt diminiſh'd; and do flatter myſelf, that Diſtance of Places or Length of Time have not affected the Friendſhip you were pleaſed to profeſs to me, when laſt in this Town. You cannot give me more Proofs of it, than in doing Mr. *O Callaban*, who will remit you this Letter, all the Service that will depend on you; he is already known to our Couſin *William*, and recommended to him by good Hands; he is a young Man of a great deal of Merit, good Inclination and Conduct: You may with Safety employ him in any Buſineſs as far as his Capacity can reach; and depend on his Diſcretion and Zeal on all Occaſions: He is related and allyed to many of your Friends and mine, who will be very acknowledging for all the Favours you'll do him; and will anſwer, in caſe of Want, for any Supply you ſhould give him. I am perſwaded he will deſerve your Eſteem, and can aſſure you I'll be moſt acknowledging for whatever Pleaſure you do him. I wiſh you all the Succeſs poſſible in your Undertakings, and can with Truth aſſure you, that I am, with all imaginable Sincerity, Dear Sir,

My kind Service to Couſin *Morgan*, and Family.

Your moſt humble and moſt obedient Servant and Kinſman,

John Obrien.

27.

Morgan's *Letter to* Don Nicolas.

20 *June*, 1721.

THis, I hope, will find my dear dear *Nick* ſafe in a warm Climate, which I long to hear of. I muſt firſt begin to tell you, that *Kirby* is here ſtill; and that we have little or no Hopes of bettering our ſelves by any thing we may charge in her: but by what I can underſtand from Mr. *Cane*, he is glad ſhe is here ſtill. I have, my dear Friend, ſent away *Seebeck* in a ſmall Ship home; and I dare engage you he is e'er now arrived. I had a Letter from *Butler* from *Varniſh*, 28th of *May*, where he tells me that there is Orders come to him to take in 19 Barrels, with every thing neceſſary to make Uſe of them; and that Mr. *Grant*'s firſt Clerk writ him Word, that in a Month's Time all that was promiſed him would be fulfilled; and told him, that two Horſes more were ready to joyn him; ſo that I may expect in ten or fifteen Days to have them with me. This I write to Mr. *Manfield*, and this you may aſſure him and *Cronin*; and in caſe our Home Trade ſhould have any Delay, we may depend on being well-provided for our Foreign Voyage; but that, you know, is not the Thing in Queſtion at preſent.

Mr. *Hore* is ſtill with Mr. *Chivers*, but I have had no great Affair from them ſince you left me; always Letters, but no Reſolution. Mr. *Farmer* writ in ſtrong Terms, not only to them, but to all his Friends; and deſires that they will venture all they have at this Time, and that he himſelf will be concerned: I am told, he writ in

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the ſame Terms to Mr. *Radnal*. Mr. *Greyfield* had a Letter from his Carpenters they all, to a Man, offer to compound with him; and preſſes that Matter with Aſſurance of Friendſhip and Sincerity; and our Friends in *Lumley* are of the ſame Opinion.

I had a Letter for you from *Hubbert*, but nothing material in it, only that he was making ready to go away; but I know he is not yet gone. ---- Mr. *Quarry* writ to me, that *Hubbert* muſt go away home; for that *Huſſey* told ſome Stories of his Gallantry, which made his Family uneaſy: But you know all this is nothing.----- *Jenny* is now forlorn, all her Lovers forſake her, except *Hore* and his Companion, who are new Comers, you know. I have here ſent you a Letter I had from your Unkle; I had one from the Cardinal from *London*, he will be ſoon in *Paris*; there is nothing worth ſending in it. Lady *Dunbar* is dead at the *Bath*, and all your Friends are well.

I have nothing more to ſay to you. I am ſure if I wanted to write a long Letter, I could not do it in a Month, if I made Uſe of the Paper you left me. Your Siſter never miſſes praying for you, nor ever drinking your Health; we are all well: Give our humble Service to all with you, and do what you will with *Jemey*. I'll not write this Bout to him. Pray believe me, dear Friend, when I tell you, that I am ſincerely yours. I write two Lines to Couſin *Andrew* on the other Side.

Adieu, my Friend.

Little Lord *Tyrconnel* is made Captain in *Nugents*, with a Penſion of 1500*l*. See Sir *Tymon*, if you go where he is; I have not yet writ to him, nor to *O' Sulivane*. I am an humble Servant of theirs, pray tell them ſo. Let me know how to direct to you.

Juſt now came in Letters from *Spain* to the Merchants here, that give them an Account, that no Goods from this Country can be put a-ſhore in *Spain*. In ſhort, a general Defence of Goods or Ships. Pray write.

Dear Couſin, 20 *June.*

I Hope you got ſafe to your Port. We have done nothing ſince you left us, nor loaded a Bale, but what *Seeohan* put on Board, occaſioned by ſome barbarous Stories, which I find were told by *Keating*; and he ſays *Munery* told him: In ſhort, where-ever he got it, he has told our Story fully. I only wait for Letters from *Paris* to determine the Ships going after you; but however, if you can get Letters from the Merchants of *Cadiz* to their Correſpondents here, it will clear us of all Suſpicions, and if we ſhould want Loading, it would procure it for us. I hope you will write as ſoon as you can, and let me know how you are received; and if you would adviſe me to ------ *Butler* when he comes: In ſhort, be very particular.----- Let me know if Iron and Planks are good Commodities there.

Young writ to me, and ſays, unleſs I give him 400*l*. more, he will diſcover who are concerned with me. I'll not anſwer his Letter. I am undone for Money, and none of my Friends will help me. I have nothing more to ſay, but what I writ on the other Side. All here give you Love and Service, ſo *Adieu*.

I had a Letter from *George Terry* for you, he ſays he ſent you by Mr. *O-Hearn* your Valiſe, long Glaſs and *Tableau*, with an Accompt-Book: He ſays, Mrs. *Marinane* ſent to his Houſe a Quilt, and three Ship-Curtains, which Mr. *Brown*'s Son had by your Orders. He ſays, Mrs. *Marinane* is gone for *Ireland*, which every Body is glad of. That's all.

28.

A Letter from Morgan *to* Gallway.

11*th July*, 1721.

YOU may be aſſured, my dear Couſin, it was a prodigious Pleaſure to me to receive Mr. *Hilton*'s and yours of the 15th *June* from *Cadiz*. You will find by a Letter I writ to him of the 20th laſt Month, that the *Mary* is not loaded, occaſioned by Letters that came to the Merchants here, giving them Caution not to ſend any Goods to *Spain* on Pain of being Burnt and Ship Forfeited; ſo here we are, and I am hard put to it to provide freſh Proviſions all this while. I muſt have loſt my Credit had not *Roch* ſent me a little Relief.

I ſent away our Friend the Colonel in a ſmall Veſſel from *Roſcoff*, five Days after you parted, with a fair Wind which laſted 8 Days; he was well inclined and well inſtructed, and I dare ſay he will bring Goods or Money to ſupply us. I had a Letter from *Butler* of the 28th *May*, to tell me that he was then loading the Things that were promiſed us, and that he would be with us in a Month's time. In ſhort, I do not at all doubt, but we ſhall be puſhed by them People to go on our old Buſineſs,

and

and I think it would not be amiſs if you diſcourſed ſome of the able Merchan there, and ſee if they would join you for an *India* or *China* Trade, telling them that you will have Paſſes and Commiſſions. The Colonel, I hope, will bring us an Eſtabliſhment for a Company, or at leaſt will get us joined with the *China* Company of that Country. If you find that you can do any thing better for your ſelf, in the mean time, we will conſider of it. I am in hopes ſince *Nick* is gone to *Madrid*, that he will determin you one way or other ſoon, and could he obtain what was promiſed me, of Cruizing in the *South-Seas*, or ſupplying *Negroes*, it would be a happy Turn. If you and he would have me join you there I will, tho' it will be impoſſible for me to ſtir till *Butler* comes, and till I have my Anſwer from that Country.

The Czar of *Muſco* made an Invaſion in *Sweden*, and there are two Frigates come without the *Sound* to cruize upon *Sweden*; I hope this may no way retard or hurt us.

I ſhould be glad you prevailed upon ſome of the *French* or any other Merchants to write to *Morlaix* of your Arrival there, and if they ſaid that they were ſorry they did not their Goods on Board you, it would take off a thouſand ſcandalous Sulpicions that theſe People formed by ſeeing ſo fine a Ship as you have come in here. *Cammel* is very well, his Men were very troubleſome, and two of them would leave him, and raiſed a thouſand Stories, but the Commiſſary took them up and put them in Priſon, where they ſhall ſtay till he goes away. *Young* writ me a very threatning Letter, and in ſhort ſays, that he will do all in his Power to ruin me and all that are concerned, unleſs I give him 400 *l.* more. I don't anſwer his Letter, nor will not. Pray be very particular, for tho' I expect next Poſt willbring me your Opinion about Loading the *Mary*, and all Accounts that you can ſend me on that head, yet you muſt from time to time ſend me Word how I am to behave my ſelf as to *Butler* when he comes, and if I may Load him, or if he brings Iron and Planks, whether I am to ſell them here or ſend them to you there. Pray don't forget to have Letters writ to the Merchants here.

I beg you will inquire whether Mr. *Peter Waddis* of *Briſtol* be ſettled there; if he is, he will ------ on my Account, give him my Service; give *Jemmy* ------ our Loves and Services, and to young *Nick Macnamara* and *Spering*. I pray write to my Nephew, direct to Captain *John Sulivan* in *Camerford*'s Regiment. Let *Jemmy* write to him, if you don't care to write. How goes Matters with *Patrick*? All here embrace you, as I do with all my Heart.

Adieu, dear Couſin.

I have tried all our Friends, but can't get Sixpence from any Creature. I writ to *Hilton* all I can ſay, as to our home Trade; my Friends in *Paris* are full of it, but I am not ſo warm: I deſired *Hilton* to write to you all I writ to him, and all he can learn where he is. *Adieu.*

29.

A Letter to Captain Andrew Gallwey *from* Morgan.

Dear Andrew, *Auguſt 15th*, 1721.

I Have yours of the 21ſt *July* from *Cadiz*, which came here the 10th Inſtant; you are long ſince adviſed that I landed Mr. *Sieohan*'s Bailes; and that the Ship is now clear and ready to ſail, if we knew where to ſend her. As ſoon as I have a juſt Account from *Seebeck* or *Butler*, I will take my meaſures, and ſend her either to *England* or *Ireland* to be cleared, and take Letters of Health, and ſo to joyn you; I mean if your next gives me the Encouragement you propoſe. I cannot be a Judge of what Meaſures you propoſe to take with *Patinion*; but let me tell you, he has a further Reach than you can pretend to, and he will always have a Bisk in his Sleeve; however I'll ſuſpend my Judgment till I am made ſenſible of the Affair. You tell me that you give great Speculation, and that People do not know what to make of you there. I believe it indeed, for I declare I have Letters both from *England* and *Paris* to give me an Account of your Grandeur and Extravagancy. God knows how often I have been mortified on that Subject theſe four Years paſt, but now more than ever, for in ſhort People who ſees their Money running out, and no hopes of any Succeſs, will not bear it,

it, tho' I may. I preſume *Patrick Galwey* or ſome of your own Relations writ to *London* for Mr..... Mr ..... [I blot out Names] and indeed another Perſon that I will not name here, writ to me from *London*, and I have it of both ſides from *Paris*; even People that has nothing to do in the matter writes it from thence, and wonders who ſupports it. I would to God I had never had any thing to do in Sea Affair, I am ſure I paid dear both out of Pocket and in my Mind and Fatigues for it theſe five Years paſt, and what vexes me moſt is that you are not the better for it; but to the contrary loſt your time, and put you upon a footing that you will not be able to ſupport; and now the People have nothing to do but running over your Management and manner of living; and I don't wonder at it, for they are altogether by the Ears amongſt themſelves, and laying their own Loſſes and Miſmanagements at each others Doors. I pray God ſend me once free from this Life. I declare before God I have not one Penny in the Houſe, tho' *Roch* ſent me 7000 Livres, and now I know not what to do, but to ſell my Plate, which I writ to *Roch* about. If you could pay the 200 *l.* I might Pawn it, but I believe you will not be able to do it.

You ſay you have Complaints to make me of the young Men I recommended to you. I know but of my Son; if he puts up for any thing, I will ſoon bring him down, for he ſhall have no manner of Liberty. As for Mr. *Wogan*, he I believe will be entirely governed by his Couſin; and as to Mr. *Calehane*, you have him for your own Account. It was you brought in Coll. *O Bryen* unknown to me; and I own it gives me more Pain than any Body elſe, for I know he has let others joyn with him that are poor, and will have great Complaints at the latter end. I dare ſay Mr. *Hilton* will govern them young Men. As to *Spering* I thinkt he can be capable of giving you no Pain; for I think he ſhould be too little an Object to give either Pain or Pleaſure. However you know how to eaſe your ſelf of every Body that will not conform to the manner that is neceſſary; particularly, as I ſaid already, if my Son gives the leaſt Pain or Trouble ſend him to *Seville*, or ſome Country Town, to learn the Language, and I'll ſend him wherewith to ſupport him till I bring him home. I had by a round-about way an Account that there was ſome Diſorder among you, which I wonder Mr. *Hilton* or you never mentioned to me; but *Manfield* writ it to *Cane*, and *Cane* to me. I will write at large to Mr. *Hilton* about my Son, who I will have him be diſpoſed of till I come my ſelf, or ſend for him; and let me tell you, dear *Andrew*, that a great deal of good Nature and Freedom is neceſſary for you to govern the People that are with you, nay any People; for when you are made ſo little and ſo much vilifyed by your own Relations as I hear you are, others will think you ſhould not govern with ſuch high Hands. I told you already .... both from *London* and *Paris*, I vow to God ..... any with you ever mention'd it in any of their ..... as I know of. Here is no publick News I can ſend you. They talk of the King of *Sweden*'s being dead ſuddenly; but I have it not from thence, the Publick News has it. I hope next Poſt will inform me. As to other Matters, I can ſay nothing to them: all here are yours, and I am ſincerely ſo. *Adieu.*

I never had a better Account of any Body than I have of *Butler*'s manner of Commading in his Veſſel. Pray let me give you a Caution of your Brother; if he comes to you, we ſhall have new Complaints, and you know how he has uſed me even in the very laſt Affair.

Superſcribed
To Captain Andrew Gallwey,
Commander of the Revolution
at Cadiz.

30.

A Letter from Morgan *to* ———

My Dear Friend,

I Have yours of the 19th of *Auguſt*; and I have your Letters by every Poſt ſince you left me. I never had any Letter from Couſin *Andrew*.... Sir *Francis Fardiſe*'s Project, ſo I can ſay re .... to him on that Subject, I believe you muſt .... of nothing but of our main Deſign, and I ..... now Mr. *Manfield* has ſatisfied you that m .... could do nothing about our Home Trade, ſo .... are at Liberty to do what you pleaſe on that ....

I find you are in very great Concern what .... with my Son *James*, I thank my dear Fr .... but ſince I deſign to come to you my ſelf .... will let him alone as he is till I ſee you bo .... I hope you had the Letter I writ to him the 8 .... but I am heartily ſorry to find that he not .... writ to me of his being uneaſie himſelf,

ſelf, but . . . he joined with others to make Couſin *Andrew* . . . I thought that he was not of that turbulent . . . . but I find he is neither fit to govern . . . . and worſe that he will not be governed . . . . Sure both his Mother and I preached en . . . . . him, and particularly againſt putting up for any Party or Cabal. It is a miſerable thing when Youth once think themſelves wiſe; and as you well obſerved, that you were ſurprized to find him ſo ignorant of Books, indeed my dear Friend he is ſo, and worſe he ever will be, for he never will improve; however it mortifies me to find that he does not know his Ignorance, and that he would pretend to take upon himſelf. I'll not write to him, but you will tell him what I ſay. I am afraid ſome body adviſes him, for in his laſt Letter he ſays he was but once out of the Ship, to ſave Expence, tho' he ſays others adviſes him to go out oftner, for that he ought to take Part of it whilſt it is a going. You ſay you believe him not fit for the Fatigue of the Sea. Pray, my dear Friend, what will he be fit for, or what can I do with him, unleſs I take him home to live—— like an old Woman: What would he do with himſelf, ſince he is weary of going to Sea, which he has been ſo long endeavouring to obtain? Well. I have tired you about him, and I have ſufficiently vexed and fretted my ſelf about him.

31.

A Letter from W. Morgan *to Captain* Gardner.

Dear Andrew, *Sept.* 19. 1721.

I Have yours of the 26th *Aug.* laſt paſt, with the Order and Liſt of the Particulars of the Plate. It came in good Time, for I am juſt ſending it by Mr. *Walle* who is here with me, to have it either ſold or pawned for to raiſe 6000 *l.* I am obliged to pay the Helliſh Crew of this Ship, for as I writ to you in my laſt, they petitioned the Admiralty here, and we are condemned to clear them, and to conduct them to *London*: which way we ſhall do afterwards, God knows. The Ships from the North are not come in as yet, ſo we cannot ſtir till they arrive. I have Watches every Day on the Hill, and at Iſle *De Baſs*, leſt they ſhould come on Shore. To tell you the Truth, People are here very uneaſie, for we have an Account that the Plague is ſpread in the South, but it is not neceſſary you ſhould ſay any thing of it where you are. I told you in my laſt that I never received the Letter where you gave me an Account of Sir *Francis Ferdeſes*'s Project. I wonder you would not repeat ſuch a thing in ſome other Letters afterwards, for no body would truſt Buſineſs to one Letter at this Diſtance; in ſhort, I can give you no Opinion of the Matter, nor do I ſee any thing we have to truſt to but theſe Ships from the North. They write to me that they are richly loaded, and they write me Word, that the *China* Company gave us up their Patents, and that we are already form'd into a Company; if ſo, the Merchants of *Cadiz* would be glad to put their Intereſt with us, but we are to ſay nothing of this Matter till we come together.

As to your young Gentlemen, that diſputed Command with you, indeed you ſhall without Regard to any Body make an Example of them; and as to my Son, he will repent putting up for a Party-man: If he received the Letter I writ to him incloſed to Mr. *Hilton*, I fancy he will be tame enough, but then I knew nothing of his being a Party-man. I hope I ſhall ſoon ſee him, and then I will make him ſenſible, that he is not to diſpute Titles with me or any body elſe. I can ſay nothing to Mr. *Macnamara*, but I writ to Colonel *Obrien* this Day of it; I beg you will tell my Son, that if he follows the Example of that pretty Fellow, that he will repent it.

You ſee I can write you nothing of our Circumſtances, for I know nothing till theſe Ships come up, and then I'll ſend away this Ship to *England* or *Ireland*, as I writ you Word. All here give their Service.

Adieu, Dear Couſin.

The other Side to Hilton,

I Have my dear Brother *Hilton*'s Letter of the 26° *Aug.* You have little to ſay to me, and I as little to you. I had, as I told you already, my laſt Inſtructions from Mr. *Cane* to tell me that *Hore* could do nothing, that we muſt not loſe our own Project on Account of the Home Trade; in ſhort, my dear Friend, there is nothing to be expected from them People; and all we have to do is to try our Fortunes, and ſee if we can make up our Loſſes any other Way; but ſtill the Infatuation of ſome of them blind People is ſo great, that I had Letters the very laſt Poſt from ſome of our Friends, to tell me they would find Means to raiſe the Fund we deſired for that Trade: I can ſay nothing of our own Buſineſs till the Ships comes in the . . . . What I writ to *Gardner*, and as to my Son, I am truly obliged to you for your Care of him; do with him what you

you think beſt, ſo you give him no Liberties, and that you will make him ſenſible of his Duty to your ſelf and every body elſe above him. I wiſh I had never ſent him, ſince he finds himſelf ſo much Maſter already, and worſe to be join'd with other young Men. Pray, my Dear, keep him on board, and let him not go Aſhore, unleſs with you or his Couſin, for if he once gives himſelf a Looſe to Vice, I have done with him: I am ſure 'tis keeping ill Company ſince he went hence. Your Siſter, Nieces, and all Friends give you and *Gardner* their kind and humble Service. None upon Earth is more ſo than your own affectionate Servant,

W. M.

Superſcribed
To Captain Gardner *on Board the* Revolution *at* Cadiz.

32.

Morgan *to Meſſieurs* Hilton *and* Gardner.

Nov. 7. 1721.

MY dear Brother's Letter to your Siſter of the 13th of *October* came ſafe laſt Poſt, and here I am ſtill to anſwer it. You will have receiv'd ſome of my Letters e're now that will tell you of *Butler*'s Arrival here the 7th of *October*, and that we hourly expected *C. Seebeck* and other Ships from the *North*, but as yet no News of any. I am perſuaded that Colonel *Seebeck* muſt be e're now with you; as for the others, I hope they are likewiſe gone by; but here am I with two Ships upon my Back, and no Friend on Earth to give me 6 *d.* However, I this Day begin to equip them out with Men and Proviſions, that is, if all my Credit can raiſe Money, as I hope in God I ſhall; but if the other Ships are arrived, pray don't fail to deſire *C. Seeb:* to ſend me here 10 or 15000 Livres. Indeed I am in hopes ſome Account of him will come to me by next Poſt from you, and ſome Bills likewiſe; Mr. *Oſtoff* is with me, and we are all very impatient to leave this Place, for we are afraid the Ports of *England* and *Ireland* will be ſhut up againſt us; but if we can get out in 10 or 15 Days, we ſhall ſtill ſave our Tide. My next will tell you more exact how ſoon we can be at Sea.

I have now the whole Project of Sir *Francis Ferdes*, I do not think it a bad one, I believe in *Europe* there are not People can better undertake it than our ſelves, without the help of any *Genoa*, or other Nation. I wiſh I could get time enough to you before Sir *Francis* goes thence. I am ſure we can ſet out four of as fine Frigates as any in them Seas; but it ſignifies nothing what I can write hence; however, ſhould you go with your Cargo to *Genoa*, you will leave full Inſtructions for me at your Merchants. What ſignifies making you uneaſy by telling you all the Miſery I run through; but I am ſtill labouring, and I hope in God I ſhall compaſs coming to you. Your Siſter is very entirely yours, and would write if I would let her: but I am too full of Spleen and Uneaſineſs to bear either Love or Friendſhip to be mingled with my unfortunate Affairs. Our hearty humble Service to *Gardner*, *James*, and all Friends.

You will expect I ſhould ſay ſomething of our Home Trade, but really it is out of my Head, for I ſee nothing we can do there. *Chivers* adviſes me to write to *Hore*, but I'll not meddle in it till I come to you. —— All *Hore*'s Partners are Cowards in Trade, and nothing to be expected. As for my Part, I hope for nothing from them, and when I cannot raiſe a Friend either amongſt them or my own Partners that would lend me a hundred Pounds, what can I hope for? They bambouſle *Chivers* and themſelves too, and there I leave them; they are as warm and make as many Promiſes as ever they did. I have not writ lately to Mr. *Manfield*; but when I leave this Place I will. I have nothing to ſay more, but that I am full of the Spleen, and very much afraid that I ſhall not get my ſelf out here. Wherever I am, you have a ſincere and affectionate Brother and humble Servant.

33.

Morgan *to Mr.* Hilton.

Dec. 12. 1721.

YOURS my dear Brother I have of the 18th of *November*; I am ſorry to find how little Dependance we have either of us upon thoſe we expected Relief from.

I had a Letter the ſame Poſt from Colonel *S.* where he expreſſes his Impatience to ſee me. God knows I work my Endeavours, and indeed more than I ever thought I ſhould be able to go through; but I find moſt of my Miſery comes from too much Conceſſion in my ſelf.

We have laſt Poſt got an Order to Man our Ships; and tho' I made a Proviſion for parting hence the 15th of laſt Month, yet I am now working for a freſh Supply of Money to ſet us out: if no Accident does happen, and that the Weather ſhould ſerve, I hope we ſhall be able to go hence next Week for *England*, where we do not propoſe to tarry, only to get Letters of Health and Clearings, and the Moment I come to you I will clear all this Affair; that is, if thoſe Gentlemen have not a Fund to go on with it, I will put my ſelf out of any further Expence; and if ever I am again perſuaded to have any thing to do with Shipping, it will be my Fault. There never was ſuch Weather as we have had here theſe two Months, continual Rains and Storms: If the Weather ſhould ſettle, I hope we ſhall be ſoon with you. As to the Affair of Sir *Francis*, if other things fail us, and that it has a Face of Succeſs, we may embrace it. But if I may give you my Opinion, neither will do. I could wiſh you would get Money enough to make a Trip to *Genoa* for the ſake of having a little Money.

Pray give my moſt humble Service to *C. S.* and tell him that I am but this Moment come home from *Morlaix*, being there to prepare Matters; and as the Poſt goes hence within half an hour, I have not Time to write to him. Mr. *Oſtoff* had an Account from *Holland* that his Ships were there the 20th of *November*. I hope they are with you e're now. I was obliged to put Mr. *Butler's* Ship under *French* Colours for ſeveral Reaſons: *Firſt*, No *Frenchman* would go in her for fear of the *Turks*; and *Secondly*, She was not ſure even as to the Goods on board, therefore ſee what Precautions are neceſſary to be taken, leaſt our entering there ſhould be denied us: for that Reaſon *Cambel* will ſtill go under *Engliſh* Colours. I would be glad your Gentlemen ſhould always keep a fair Correſpondence with thoſe Gentlemen, for it is neceſſary we ſhould give them no room to complain of our Conduct; and if you can, without much Trouble, I ſhould be glad you cultivated a Friendſhip with Sir *Francis*, leſt we ſhould want him. If it ſhould happen that you went to *Genoa* before my coming, pray either leave your Inſtructions in Writing, or you remain there for me, as it ſhall beſt appear to you. Really my Heart is almoſt broke. I ſend incloſ'd two Words to *Andrew*; but as I ſay here all I have to ſay, ſo I conclude with aſſuring you, that all here are entirely yours, and that I long to be with you. My Service to all our Friends with you. I have been theſe three Days at *Morlaix*, to ſee if I ----- raiſe a little Money; but as I could prove my ſelf ----Owner or Armatore or Captain of the *Lady Mary*, I am juſt as wiſe as I went.

34.

A Letter from Morgan *to Meſſieurs* Hilton *and* Gardner *at* Cadiz.

26 *Dec.* 1721.

I Have, my dear Brother, yours of the 2d *December*, laſt Poſt. I cannot help ſcolding you a little, my Dear, but I do not lay great ſtreſs on the Crime; you writ me of 25 *November* that there would be a free Trade from this Country, and in this of the 2d *December* you mention nothing of it, but to the contrary frightned me with the Quarentine; your Intelligence every way is bad, I fancy, for the Merchants here has had no Accounts of either the one or the other; but if it be ſo, we muſt bear it, for let the Circumſtance be how it will I am reſolved to venture. And now I have nothing but contrary Winds to hinder me, I go in *Butler's* Ship at laſt to *England*; and if *Cambell* can get out time enough to overtake us in *England*, I may go thence in his Ship, but as he has not all his Men I am not ſure whether he will be ready to follow ſo ſoon: for when the Orders came to the Commiſſary not to give us Men, in *November* laſt, all our Crew were ordered to be diſcharg'd; and now we are oblig'd to make a new Crew. As my time of coming into the Bay of *Cadiz* is very uncertain, I hope you will all watch us, and try at leaſt that I may get on Board ſome of you or on Shore. I writ this Day to Mr. *Manfield*, to deſire him to do me what Service he could in that Affair. *Bennet* has not writ to me, as you told me he would.

I am ſorry you are all ſo very miſerable, and more ſo that I cannot help you; but as ſoon as I come to you depend upon it I will puſh it on one way or other, and aſſure

Andrew

Andrew from me that he needed not preſs my coming. I have too much Value for my Honour, to let it be loſt, for fear of Life or Fortune. I'll come as faſt as I can; and as to their parting in *January*, I defie them, for they will not have their Proviſions againſt that time, and I'm ſure it is as much as I can do to buy Proviſions for the two Ships here. As to the *Swediſh* Ships, they muſt be e'er now with you, or loſt. Several Ships of *England* has periſhed in theſe laſt Storms. I ſent *Andrew* Word that I drew on him for 7000*l.* payable in three or four Months. When the Ships come there, if he can get that Money he may return it to *Monſieur Philabe Banquier à Morlaix* on my Account, which will ſave us Money, or elſe to Mr. *Waters* in *Paris*, and write to my Wife that ſhe may tell Mr. *Philibe* of it. It is in vain to tell you what ſhifts I make, without getting one Penny from any of our former Friends, nor from any of *Chivers*'s Friends, but all on my own bottom.

Your Siſter wiſhes you all a happy New Year, and ſo does your Neices and all other Friends. Pray make the ſame Compliment from me to *C. See*, and Mr. *Olrick*, and to all our own Friends with you. I have no more to ſay but that I am ſincerely yours, ſo my Dear Friend Adieu.

35.

W. Morgan *to* Monery.

Mr. Monery,

PRay be ſo kind as to come aſhore and come to my Houſe by one a Clock, for the Scrivener will be with me to take your Delcaration; do not fail, and if you have any Memorandums bring them with you.

I am,
Your moſt Humble Servant
W. Morgan.

Saturday, 11 a Clock.

36.

A Copy of Captain Monery's *Declaration about the Sloop at* Cadiz, *in* April, 1722.

I *John Monnrrey*, Captain of the Sloop named the *Saint Mari*, by the Preſent I declare, that at the beginning of *January*, 1719, I was ready with my Sloop, all her Sails, Cables, ſtanning and running Rigging new, to ſet Sail, the ſaid Sloop being about three Years old, lying in the Port of *Roſcoff*, in *Britanny* in *France*. And the 12th of ſaid Month a Gentleman called Mr. *John Fiſher* came aboard of the ſaid Sloop, by Orders of Mr. *William Morgan* Proprietor of the ſaid Sloop, who ordered me that without loſing any Time to tranſport the ſaid Mr. *Fiſher* to any Port of *Spain*, that Wind and Weather would permit me; but by the reaſon of contrary Winds and Storm I could not ſet Sail till the 24th of the ſaid Month of *January*, on which I ſet Sail from the ſaid Port of *Roſcoff*, and being at Sea, Mr. *Fiſher* manifeſted to me an Order he had from his Catholick Majeſty, ordering the Governours, or Juſtice of any Port, where he would Arrive, that they ſhould aſſiſt him, and provide for his paſſing in Diligence to *Madrid*; and in effect having arrived the 31ſt of *January* at the *Groyne*, and coming to an Anchor in the ſaid Port, the ſaid Mr. *Fiſher*, Mr. *O Sulivan*, and my ſelf went immediately to the Vice-King Marquiſs *de Risbourg*, and being with his Excellency a little time, he ordered *Monſieur Drew* to provide Mules for the ſaid Mr. *Fiſher*'s Paſſage to *Madrid*; in two Days after I preſented my ſelf with Mr. *O Sulivan*, who came along with me from *France*, by Order of my ſaid Proprietor, and who is now Captain in the *Iriſh* Regiment of *Waterford*, and his Excellency ordered me to keep my ſelf in all readineſs for to ſet Sail, and he would provide all things Neceſſary in caſe of wanting, and ſo continued till his Excellency the Duke of *Ormond*'s Arrival at the *Groyne*, at which time the Vice-King and ſaid Duke ordered to be delivered to me four Guns, and a ſpare Cable of a hundred Fadom and nine Inches and a half out of a Prize, that was in the ſaid Port, as alſo Powder, and Ball, from the King's Magazines, which I receiv'd and gave my Receipts for them, and they ordered the ſaid Sloop to be meaſured, which being done was found to be 68 Tun and a half, and from time to time the Vice-King and Duke of *Ormond* gave me Orders to be ready, and to have the Proviſions neceſſary Aboard for to Sail about the latter end of *June*; that they knowing that the Expedition could not be perform'd, the Vice-King told me he had no more Uſe for my Sloop, and I begg'd his Excellency would be pleaſed to give

me

me Certificates neceſſary for my Detentions, in caſe I ſhould meet with any *Engliſh* Ships, which he did Certify, that my Sloop and Crew was detained in the *Groyne* by him from the 31ſt *January* 1719, till the 1ſt of *July* of the ſaid Year, on which Day I ſet Sail for the Port of *Roſcoff*, and having embarked ſeveral Goods by the order of my Proprietor, and of Sir *Peter Strafford* Reſident in the *Groyne*, who can declare all this to be true, the ſaid Sir *Peter* ſpoke ſeveral times to the Vice-King, and receiv'd from him the Certificates neceſſary. And the 4th of *July* I was attacked by an *Engliſh* Privateer, who made himſelf Maſter of my Sloop and of all the Goods, and likewiſe my Certificates and Papers; the Goods was to the value of ſix hundred Pounds Sterling, and Sloop coſt to the Proprietor fitted with all things neceſſary for the Voyage 650 *l.* Sterling, and ſhe being carried to *England* was declar'd as lawful Prize, the Veſſel and the Goods, by Informations they had that I and my Sloop was imployed in his Catholick Majeſty's Service, and that I came from *France* upon that end, and I declare that I receiv'd no Money for Freight, nor recompence for the Loſs of the Sloop nor Effects; which Declaration I make that my Owner may demand Juſtice from his Catholick Majeſty.

37.

Dear Couſins,

AS you and I have agreed that the Ship *Revolution* under your Command ſhould be given up to Sir *Francis Ferdiſe*, Major-General to his Catholick Majeſty, for his ſaid Catholick Majeſty's Service, I deſire that on Receipt of this you will give him Poſſeſſion of the ſaid Ship, and on all Occaſions follow his Directions. *Cadiz* the 2d of *April*, 1722.

William Morgan.

To Mr. *Andrew Gallway*, Commander of the *Revolution*, in the Bay of *Cadiz*.

38.

Gallway *to*———

SIR, *Cadiz June* 2, 1722.

I Have your Favour of the 26th of the laſt Month now before me, which brings the agreeable News of *Robert*'s ſafe Arrival, and hope you have before now the like Account of *Quarles*.

It was not without Violence to my own Inclinations that I omitted writing by the laſt Poſt; but having nothing worth your Notice, I would not treſpaſs upon your Time by an impertinent Viſit.

Had I not liv'd here long enough to be ſurprized at nothing that Malice, Envy or Falſhood can ſuggeſt concerning me and my Family, I ſhould wonder how the Report you mention of the *Mooriſh* Ship could be rais'd upon no manner of Foundation. Had there been any ſuch thing, I ſhould be the firſt to give you an Account of it; but even here, in the Center of Fiction, I never heard it ſpoke of.

This Place abounds in a People, who (without excepting any Kind or Condition) think they have a right to be let into every ones Buſineſs; yet being diſappointed, would not only thruſt themſelves into Affairs, but rather than not be thought Perſons of Conſequence, will give out Secrets of their own Invention. I ſay this by my own ſevere Experience of them, having been turned into ten thouſand Shapes and Colours ſince I have been here; but the Folks being ſtill at an Uncertainty within themſelves concerning me, I bore the Shock of all the Injuries could be done me. I can attribute nothing of this to any of 23 Stamp, who are the leaſt Inquiſitive, and my beſt Intimates, but altogether to the Folly, or ſomething worſe, of would-be-thought Friends and hot Zealots.

I fear ſomething of this Sort have got within your Neighbourhood, but you will ſoon diſcern what Spirit they are of, being ſo awkardly formed that no Diſguiſe will fit them well enough to conceal the Buſy-Body, to ſay no worſe of them.

The *Spaniſh* Fleet, conſiſting of ſeven Ships of War, and two Frigates, ſail'd yeſterday Morning with a Weſterly Wind, and bore away in the Evening for the *Streights*. We have a *Levant* to Day, their Voyage is kept ſo private here, that it's become the Chit-Chat of the Town, every one talking of it according to his Fancy.

Pray do me the Honour to aſſure *Manſfield* of my moſt humble Reſpect, and let me be always ranked amongſt the Number of, *SIR*,

Your moſt humble and moſt obedient Servants.

A

39.

A Letter from Gallway *to* - - - -

Dear Sir,

IN my laſt (which I hope came to Hand) I gave Reaſons why I could not comply with your laſt Draught upon me in leſs than ſix Days, but found my ſelf in a Condition to do it much ſooner than I expected; and were I not prevented by hard Gales of contrary Winds, the - - - - would have been loaden and diſpatched before now: while I am writing this ſhe is taking in the laſt of her Cargo, and I hope will ſail To-morrow.

I am almoſt diſtracted for not having heard any thing from you by this Poſt, your Correſpondence having been always ſo regular, that your not repeating Orders and Advice concerning the Buſineſs in hand gives me a thouſand Apprehenſions: God ſend our Bankers and the reſt of our Friends are ſafe and ſtand their Ground.

I intend to embarque my ſelf on Board the - - - - leaſt my Dear Aunt ſhould have any occaſion for Aſſiſtance, of whom I am ſo tender that I would not (if poſſible) have the Care of her put into any other Hands, ſo you may not expect to hear from this Place any further from, *Sir,*

Cadiz, June 16, 1722. *Yours,* &c.

40.

Gallway *to* ———

Dear Sir, Alicant Bay, *September* 13, 1722.

I Have the Honour of Yours of the 4th Inſtant by the Return of the Expreſs that carried you my laſt, which is the only Anſwer he brought to any thing that was ſent by him. The Misfortune of 37 having been the Occaſion of his Diſpatch, he carried Mr. *F---s*'s Letter to the King addreſſed to *Don Andrez de Pez*, but we want even the Satisfaction of knowing whether he received it or no; For as we were obliged to paſs all our Papers thro' Vinegar into the Hands of the Deputies of Health (who I have reaſon to believe are no good Friends to Mr. *F---s* on ſome old Account) it was in their Power to forward or detain what they thought fit, and the Event has given but too much room to doubt we were not fairly dealt by. God only knows how or when we ſhall be relieved, but here poor 37 lies loſing Time under the preſſure of a growing Incumbrance, which notwithſtanding my utmoſt Efforts will in all likelihood compel me at laſt to diſpoſe of her.

I have a great Satisfaction in the Aſſurances you make me on your Aunt's behalf, whoſe Favour I extremely value. It has been ever my ſtudy to avoid giving her Trouble, not but that I had always a juſt Confidence in her Goodneſs, nor that I ever failed in the Reſpect or Duty I owed her, but purely out of a Conſideration of the Cares ſhe had already to oppreſs her, and that ſhe is daily ſurrounded with Crouds, who inſtead of endeavouring to make her Burthens eaſy, are I doubt adding more Weight to them; this was my reaſon for not deſiring her Aſſiſtance, and as you tell me ſhe could give none in the preſent Affair, had I ask'd it, I am glad I have not given her the Uneaſineſs of not anſwering my Expectations. Your own Candour will eaſily ſuggeſt to you that theſe Sentiments flow only from a tender Regard to her Tranquility, which I ſhall for ever endeavour to contribute to as much as poſſibly I can

As to what you mention concerning the Letter to Mr. *Alexander*, I beg the favour of having it directed to me here, under Brigad. *Mac Donald*'s Cover, who, if I am gone before it arrives, will find a ſafe way of conveying it to me; as Opportunity offers I ſhall either ſend or deliver it, which as yet I can't determine.

I am not much ſurprized at the Reſolutions of the *Engliſh* Miniſtry to proſecute a Plot which they have a Notion of, ſince it has been a long while their Cuſtom to fill the good People's Minds with new Ideas of Danger raiſed, to furniſh a Speech for every Seſſion of Parliament. I am ſorry for Mr. *Kelly*'s Confinement, but hope that is the worſt that can befall him. You will oblige me mightily in letting me hear from you as often as poſſible, and in believing that no Man living can be more zealouſly attach'd to your Aunt's Intereſt, nor more faithfully than I am,

Dear Sir, Your moſt obedient, humble Servant.

Let-

41.

Letter from G. O. Sulivan *to Captain* Gardiner *at* Genoa.

Dear Couſin,

THis Inſtant the *B*----- tells me that an Acquaintance of his was to ſail hence for *Genoa*, by whom he had a Mind to write; I embrace the ſame Occaſion, though I have nothing to mark worth your Attention ſince my former to you by Capt. *Jefferſon*, wherein I remitted you Encloſed the *B*----*r*'s Letter with another of my own for Mr. *Morgan*, to whom you'll be pleas'd to give my Cordial Service, as alſo to Sir *Francis Ferdize*, Mr. *Manery* and Mr. *French*.

I had a Letter from Couſin *J*----*s* this Day, he is well and out of that little Trouble.

I pray you may let me hear from you, and believe that I am without Reſerve,

Alicant, *Nov.* 1, 1722. *My dear Couſin,*

Your moſt humble, and moſt obedient Servant,

G. O. Sulivan.

The Ladies aſſure you of their kind Service.—I writ you ſomething in my Precedent, and will touch no more on that String, until I hear from you, in the mean time I will not forget your Commiſſion to me.

The former Letters I ſent under Cover to Sir *Francis Fardize*.

42.

Letter from Gallway *to*——

SIR,

NOT knowing what Account you had of me from *Medly*, under whoſe Directions I have acted for many Months paſt, and who I make no doubt has mention'd me to Mr. *Freeman*, I can only at preſent inform you that I am arriv'd here after a tedious Paſſage; and that the only Motive of my coming hither was to preſerve me unſuſpected by *Randal*'s Friends, who, as I have managed it, have not hitherto taken the leaſt Umbrage. For further Particulars I muſt refer you to the Encloſed, which I beg you'll pleaſe to deliver, and if you'll honour me with a ſure Addreſs I ſhall for the future be able freely to communicate my Thoughts more at large.

What further Courſe to take, is what I earneſtly entreat to be commanded, and will be moſt impatiently expected by,

Sir, Yours, &c.

I have a Couple of fine Greyhounds, a Dog and a Bitch, for Mr. *Freeman*, to be ſent you by ſuch Conveyance as you will pleaſe to direct.

Genoa, 3 *Nov.* 1722.

43.

A Letter from A. Galway *to Mr.* Bennet, *dated* Genoa, November 3*d*, 1722.

Dear Sir,

I Had the Honour of yours covering a Letter from *Quarles*, juſt as I was under Sail in *Alicant Bay*, which prevented my not ſooner anſwering it; in my Paſſage hither I met with terrible Bad Weather which made it both very tedious and fatigueing, but I thank God I am ſafely Arrived without ſuffering any extraordinary Damage. I hope you have not omitted Writing by the following Poſt, according to Promiſe, and I impatiently expected from the Brigadeer whom I enjoyned to loſe no time in forwarding any Letter that ſhould come to his Hands, for until your further Commands I ſhall be at a Loſs what Courſe to take for my future Conduct. I need not mention what an uneaſy Situation I am in, you knowing already all Circumſtances; the only Conſolation therefore I can expect, and what I ſhall eſteem the greateſt Favour is to hear from you by all Occaſions; and that I may be always reputed one of Mr. *Gregory*'s moſt faithful Servants as I hope you'll do me the Juſtice to believe I am,

SIR,

Yours at Command,

To Mr. *Bennet.* *A. G.*

44.

Draught of a Letter from Morgan *to*

Dear Sir,

THIS owns the Receipt of both yours of the 1ſt and 8th *Ult.* delivered to me by my Lord A. B. Your former by *Jefferſon* I have duly Anſwered, as I have before ſignified to you of my Arrival here, ſo that this is my Third ſince our Interview, which I hope will find you and the reſt of our Friends in as good plight of Health as I wiſh you, I am truly ſenſible of my dear---------- good Intentions for me, which I ſhall always acknowledge and requite, if ever I am able; the hopes you give of Succeeding in the Commiſſion which you did me the pleaſure to charge your ſelf with is very agreeable to me, for I muſt tell you I never form'd a Center of Settlement to my ſelf before, ſo Cordial is my Affections for that Family; but as to further particulars I refer you to my laſt, to which I have nothing more to add, but enjoyn you to a Secrecy of what paſſes between you and I, on that Subject, until a more proper Occaſion of Advances offer, which ſhall be aſſoon as Circumſtances will admit of; in the mean time you are not to fail of your tranſient Advices, and by all Occaſions communicate to me your frank Opinion of their Reception.

45.

A Pocket Book wherein is the following Memorandum in Geo. Kelly*'s own Hand Writing, ſuppos'd to belong to* Morgan.

Mr. *Johnſon* at Mrs. *Barns*'s at the *Crown* in *Pall-Mall.*

46.

A Letter from Ja. Johnſon *(i. e.* George Kelly) *to Mr.* Gardiner, *at Mr.* Alexander's *near* Redriffe *Church* Deptford, *or at Mr.* Bronſdon's *Dock, near the Red Houſe.*

My Dear Friend,

I Am ſo engag'd about our Friends, and a little Buſineſs of my own, that I cannot before next Week do my ſelf the Pleaſure of ſeeing you; but am obliged in the mean Time to make a Requeſt of you, which I hope you will Pardon, and grant, if you conveniently can do it; and that is to lend Twenty Guineas for Two Months, for I am oblig'd to pay a Sum of Money to Morrow, and want ſo much to make it up, which if you can ſpare and ſend me a Bill for it by the Bearer it will be a very great Obligation. I make the Note on the other Side payable the Firſt of *May*; but ſhall be able to Pay it ſooner if cannot ſpare it ſo long. I had a late Letter from Sir *John*, who is Well, and deſires to be remembred to you, he got but 10000 Livres by his Proceſs with *Carroll*. Our Friends in *Spain* are all Well, as one of the Family writes me Word, I hope you'll Pardon this Freedom and believe

Yours Entirely,
Ja. Johnſon.

I Promiſe to pay Capt. *Gallway* the Sum of Twenty One Pounds *Sterling* the Firſt of *May*, as Witneſs my Hand this 11th Day of *February*, 1719. Value receiv'd.
Ja. Johnſon.

47.

The Examination of William Haynes, *Firſt Mate of the Ship* Revolution, *Seized by Capt.* Scott *at* Genoa.

WHO ſays that on the 21ſt Day of *April*, 1722. he was received as firſt Mate of the ſaid Ship *Revolution*, then lying in the Bay of *Cadiz*, carrying 36 Guns, Commanded by one who called himſelf *Andrew Gardiner*, whoſe true Name this Examinant has ſince found to be *Gallway*. That the ſaid *Gardiner* gave out that he was Bound on a Voyage to the *South-Seas* in Company with a *Swediſh* Man of War Commanded by Capt. *Ulrick*, and another Small *Swediſh* Veſſel Commanded by Capt. *Lind*. That the *Lady Mary* an *Engliſh* Ship of 24 Guns, Commanded by *Patrick Cammell* was likewiſe to go in Company with them, that about the beginning of *May* following, the Voyage to the *South-Seas* being laid aſide, Capt. *Ulrick* abovementioned, would have forced the ſaid *Gardiner* and *Cammell* with their two Ships to have returned with him to *Sweden*, but being abſolutely refuſed, he left them and returned to *Sweden* with the two *Swediſh* Ships. That the Ship *Lady Mary* Sail'd an Hour or two before the *Swediſh* Ships, and was purſued by Capt. *Ulrick*, who threatned to bring her back again to the Bay of *Cadiz*, but that he did not come up with her, and that the firſt place where the ſaid Ship was afterwards ſeen by this Examinant, was the Harbour of St. *Andero*. That about three Weeks or a Month after the Departure of the ſaid Ships, Capt. *Gardiner* having given Orders for the unmooring the Ship *Revolution*, the Ship's Company being well aſſured that the Voyage to the *South Seas* was Dropt, refuſed doing Duty till they were ſatisfy'd as to their Wages, and as to the Place whither they were Bound: That thereupon the Captain promiſed to ſatisfie them in Time, as to their Wages, and told them he deſign'd for *Gibralter* to Clean his Ship. That thereupon they got up their Anchors, and waited in the Bay of *Bulls* till Sir *Francis Fardyce* was brought on Board in a Boat from *Cadiz*. That immediately after they ſet Sail, but inſtead of going to *Gibralter*, proceeded for the Bay of *Biſcay*, and off of *Villa-vicioſa*, took in a Pilot to carry them to St. *Antonio*, where they ſtay'd two Days. That the firſt Night after their Arrival there, between Twelve and One of the Clock, Capt. *Morgan*, who then went by the Name of *Walton*, came on Board them; that upon his Arrival, Orders were immediately given for Sailing, but the Wind not ſerving, they could not be put in Execution, till the Second Day after, at which time they Sailed, and put in at St. *Andero*, where they found the Ship *Lady Mary*, that about two or three Days after their Arrival there, Capt. *Gardiner* gave Directions for Unrigging the Ship *Revolution* in order to Clean her, which Directions were two Days after Countermanded, and the Ship Ordered to be in a readineſs for Sailing. That upon their Arrival at St. *Andero*, the common Report on Shore was, that the Late Duke of *Ormond* and Four Companies of Soldiers were to be taken on Board the *Revolution*, that Corn and Cattle were bought

bought up for Proviſions for the ſaid Soldiers, and that the late Duke of *Ormond* was within a ſmall Day's Journey of St. *Andero*. That Capt. *Morgan* and ſeveral *Iriſh* Officers in the *Spaniſh* Service, uſed frequently to come on Board the *Revolution*. That this Examinant was informed by ſeveral Perſons, that a great Number of ſmall Arms was on Board the *Lady Mary*; that this Examinant being Apprehenſive that Capt. *Gardiner* was engaged in ſome Unwarrantable Deſign, did declare at one *Kilſon's* Houſe in St. *Andero*, that he would Serve no longer unleſs Capt. *Gardiner* would give him a Note under his Hand, that he this Examinant was forced into the Service; that this Examinant agreed with Mr. *Robert Franklin* Second Mate of the *Revolution*, that in caſe Capt. *Gardiner* would not declare whither he was Bound, and give Security that he would go on ſuch a Voyage as he Declared, and no other, they would leave the Ship if they could carry off their Cloaths and Wages; but if they went on Board, and found that he broke his Word, they determined to make reſiſtance, with ſeveral other things to the ſame Effect, that ſome intimation having been given to *Gardiner* of what had been ſaid by this Examinant and *Franklin*, Capt. *Gardiner* ſoon after confin'd this Examinant, and refuſed to admit *Franklin* to his Table where he before uſed to Eat; that the only Buſineſs done in 17 Days ſtay or thereabouts at St. *Andero*, was ſcrubbing the Ship's Bottom, and receiving on Board a Capſton and ſome Pieces of Timber for the Ship's Uſe. That the *Lady Mary* being left behind at St. *Andero*, where Capt. *Morgan* likewiſe remained, the *Revolution* proceeded to *Alicant*, where ſhe lay about 28 Days before ſhe could be admitted to *Pratick*, during which time Sir *Francis Fordice* Writ to the Court of *Spain*, and received an Order for her being immediately allowed *Pratick* without being Inſpected according to Cuſtom. That after ſuch Admiſſion to *Pratick* they ſtaid there about a Fortnight or Three Weeks, during which Time ſeveral *Iriſh* Officers in the *Spaniſh* Service, came on Board. And this Examinant heard from ſome of the Ships Company, that the Common Soldiers on Shore, ſaid this Ship had been expected there a long time; that they took in ſome Bale Goods and ſome Paſſengers, among whom was one *O Dwyre* an *Iriſh* Gentleman, and Sail'd directly for *Genoa*. That one *Hall* a Merchant at *Alicant* put on Board two Greyhounds, which Capt. *Gardiner* ſaid were to be ſent to *Leghorn*, but which were a Preſent from the late Duke of *Ormond* to the Pretender, as this Examinant heard, after the Ship was Seized by Capt. *Scott*. That after the Arrival of the Ship at *Genoa*, ſhe lay there about a Month, during which time Capt. *Gardiner* came often on Board, propoſing ſometimes one Voyage and ſometimes another; that afterwards he Ordered the Ship to be Unrigg'd in Order to Clean her; in which Condition ſhe was ſeized by Capt. *Scott*. That the Day when Capt. *Scott* Arrived, juſt as he came to an Anchor, *Gardiner* came on Board the *Revolution* in the Day Time, contrary to his Cuſtom, and ſtaid about a Quarter of an Hour in his Cabbin, and then returned Aſhoar. That this Examinant has heard that *Edward Cummins*, *Gardiner's* Servant, Burnt ſome Papers immediately after his Maſter went on Shoar.

This Examinant further ſaith, That Capt. *Gardiner*, the greateſt part of the Officers, and ſome part of the Ship's Company are Roman Catholicks.

This Examinant further ſaith, That for want of his Journal he cannot be Exact in the ſeveral Dates mentioned in his Examination.

Capt. 11° *Die Aprilis* 1723. *W. Haynes.*

Coram me.

Tho. Tickell.

Jurat 15° *Die Aprilis* 1723. *Coram me*

Ch. Delafaye.

48.

The Examination *of* Robert Franklin, *Second Mate of the Ship* Revolution *Seized at* Genoa, *by Capt.* Scott.

WHO ſays that in *May* 1721 he Sail'd from the *Downs* in the Ship *Revolution*, Carrying 36 Guns, and Commanded by Capt. *Andrew Gardiner* (whoſe true Name he has been ſince informed is *Gallaway*) for *Morlaix* on the Coaſt of *Bretagne* in *France*; that at their Arrival off of that Port, they Fired Two or Three Guns, upon which Signal, Capt. *Morgan*, who then went by the Name of *Walton*, and one *Hilton* came on Board them, ſoon after which they were joyned by the *Lady Mary* a Ship carrying 24 Guns, *Patrick Camel* Commander, and after ſome private Conferrence between the Perſons abovementioned, the ſaid Two Ships went

into

into the Harbour of *Morlaix*; that during their Stay there, this Examinant heard that the ſaid Three Perſons had been at a Houſe belonging to the Lord *Seaforth* at St. *Pols* near *Morlaix* where the ſaid Lord at that Time was. That after Eleven Days ſtay at *Morlaix*, during which Time only Wine and Brandy was taken in for the Ships Uſe, the *Lady Mary* being left behind, they put to Sea, having taken on Board Mr. *Hilton*, Mr. *Peterſon*, Mr. *Macnamara* and Mr. *Morgan*, Son to the Capt. abovenamed, and Sailed directly for *Cadiz*, where they Arrived in *June* 172[illegible]. That ſome few Days after their Arrival, Mr. *Hilton* went to *Madrid*, whence he return'd in about a Fortnight or Three Weeks; having as it was given out, made a fruitleſs Solicitation for a Commiſſion to Trade to the South Sea. That ſome Time after a *Swediſh* Man of War Commanded by Capt. *Ulrick* Arrived at *Cadiz*, and after her an *Engliſh* Built Frigate under *Swediſh* Colours, Commanded by *Andreze Lawſon* a *Swede*, carrying 24 Guns; and a few Days after a ſmall *Swediſh* Ketch Commanded by Capt. *Lund*, in ſome Time after, *viz.* in *January* 1721-2, *O. S.* Arrived the *Lady Mary*; on Board of which came Capt. *Morgan* with ſeveral *Iriſh* Land Officers, and the ſame Day Arrived the *Fortune* a *French* Ship of 18 Guns, Commanded by one *Butler*; but ſaid to belong to Capt. *Morgan*, on Board of which laſt Ship were likewiſe ſeveral *Iriſh* Officers, at leaſt Two Hundred Barrels of Powder, each containing Two Hundred Pound Weight, and about Three Thouſand Five Hundred ſmall Arms. That this Examinant was inform'd the Muskets were Slung, and that there were Bayonets for them. That the Governour of *Cadiz* having ſent to demand for what Intent thoſe Arms and Amunition were brought, Capt. *Morgan*, in whoſe Ship they were, return'd for Anſwer that they were brought as Freight for the *Swediſh* Man of War. That Capt. *Ulrick* then for the firſt Time heiſted his *Swediſh* Majeſties Colours, and declared to the Governour of *Cadiz*, that the King his Maſter being at Peace, had ordered thoſe Arms to be Sold. About a Fortnight after Capt. *Morgan*'s Arrival, he took a Journey to *Madrid* in Company with his Son, now a Priſoner in the Cuſtody of a Meſſenger, and return'd after about a Fortnight's ſtay. This Examinant could never learn the Occaſion of his Journey. That the Three *Swediſh* Ships, the *Lady Mary* and the *Fortune* continued at *Cadiz* till about the latter End of *April* 1722. At which Time the *Swediſh* Ships returned Home. The *Fortune*, *Hilton* being Commander in the Room of *Butler*, loaded with Snuff, went to *Corunna*; and the *Lady Mary* having on Board her the Arms and Amunition taken out of the *Fortune*, Capt. *Morgan*, and ſeveral *Iriſh* Officers, went away, and was not heard of by this Examinant, till he ſaw her at St. *Andero*.

The Examination of *William Haynes* Firſt Mate of the Ship *Revolution* abovementioned taken before me this 11th Day of *April* 1723. being Read to this Examinant, he declares the ſeveral Facts therein mentioned to be true, and affirms that he likewiſe heard the ſeveral Reports therein contain'd.

This Examinant further ſaith, that he was inform'd by *Joſeph Wye* Son in Law to Mr *Wilſon* of St. *Andero*, that the ſaid *Wye* was aſſured by the King of *Spain*'s Pilot, that Capt. *Gardiner* had told him, that the Ships *Lady Mary* and *Revolution* were bought by him purſuant to the late Duke of *Ormond*'s Order for the *Pretender*'s Service.

This Examinant further ſaith, that the two Grey Hounds put on Board at *Alicant* by Mr. *Hall*, were brought from *Madrid*, by one *O Dwyre* an *Iriſh* Man, from the late Duke of *Ormond*, and were to be ſent to the Pretender. And that this Particular was told him by the ſaid *O Dwyre*, who was then a Paſſenger on Board the *Revolution*.

This Examinant further ſaith, that immediately after his Arrival at *Genoa*, he was inform'd by one *Grimble* who keeps a Tavern there, that Letters directed to either *John* or *James Jacobs* which had lain ſome Time in the Poſt-Office, were taken up by Capt. *Gardiner* in the Preſence of the ſaid *Grimble*.

This Examinant further ſaith, that he having taxed the ſaid Capt. *Gardiner* with having ſaid that his Ships were bought for the Pretender's Service, this ſaid *Gardiner* abſolutely denyed the ſame, and threatned to lay this Examinant in a Dungeon for Life.

He further ſaith, that a little while after their Arrival at *Genoa*, he left the Service, and that for want of his Journal he cannot be exact in the ſeveral Dates mentioned in this his Examination.

Capt. 11 *die Aprilis* 1723. *Robert Franklyn.*
Coram me
Tho. Tickle.

Jurat 15 *die Aprilis* 1723.
Coram me
Ch. Delafaye.

FINIS.

THE SPEECH OF Mr. George Kelly.

SPOKE

At the Bar of the Houſe of *LORDS*,

ON

THURSDAY, *the* 2*d of* MAY, 1723.

IN

His DEFENCE againſt the BILL then depending, *For Inflicting Pains and Penalties upon Him.*

Quamobrem à vobis, Judices, antè quàm de ipſa cauſa dicere incipio, hoc poſtulo. Primum id quod æquiſſimum eſt, ut ne quid huic præjudicati afferatis. Etenim non modo authoritatem, ſed etiam nomen judicum amittemus, niſi hîc ex ipſis cauſis judicabimus, ac ſi ad cauſas, judicia jam facta domo, deferemus.

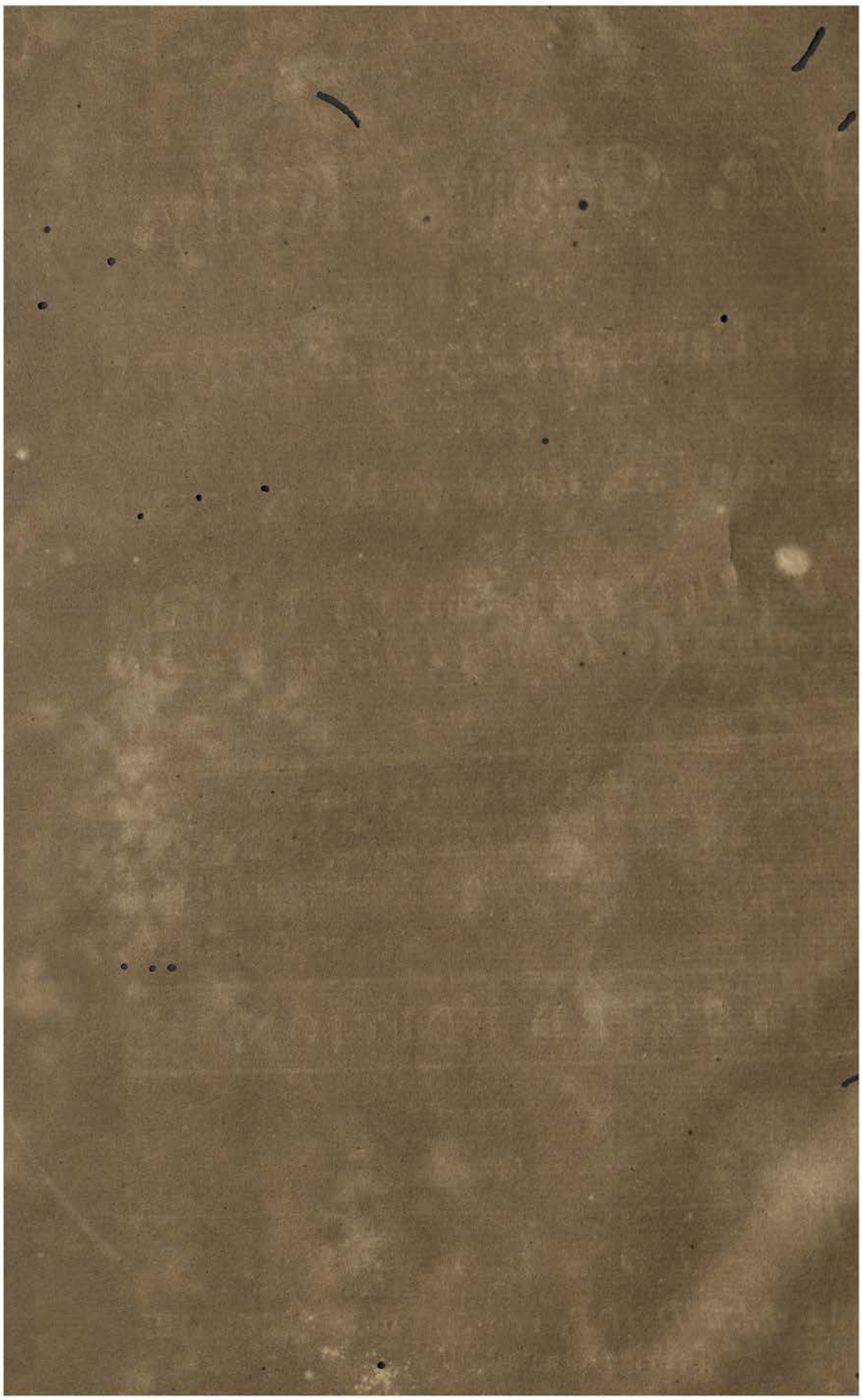
CIC. pro CLUENTIO.

The THIRD EDITION.

LONDON:

Printed for *A. MOORE*, near St. PAUL's. MDCCXXIII.

[Price One Shilling.]



THE SPEECH OF Mr. George Kelly.

My LORDS,

SINCE my Council have ſo fully anſwered every Article alledged againſt me, it may ſeem unneceſſary to take up Your Lordſhips Time by ſaying any thing for my ſelf. And, indeed, it would be ſo, if my Charge were Ordinary or Particular.

But, my Lords, I have been repreſented as a Perſon doubly guilty; Firſt, In tranſacting Treaſon for my Self: and, Secondly, In doing it for other People.

Theſe are Crimes of the moſt heinous Nature; And if they were as clearly proved, as they have been ſtrongly aſſerted, I ſhould juſtly merit Your Lordſhips Higheſt Diſpleaſure, and all the Pains and Penalties that You could poſſibly inflict upon me.

And ſince my Charge is ſo very Extraordinary: Since theſe Proceedings ſeem to be without any Precedent; and, That the Innocence of other Perſons calls upon me for Publick Juſtice;

I believe Your Lordſhips will eaſily allow, That to be ſilent, in ſuch a Caſe! would be truly Criminal, and but too juſtly Cenſured.

To

To enter into all the Particulars of my Accuſation, would, I fear, take up more Time than is reaſonable for me to ask, or for Your Lordſhips to allow: And though the many Inconſiſtencies, Contradictions, and falſe Concluſions which appear in almoſt every Page of the Printed Reports, plainly ſhew, The Weakneſs, Abſurdity, and Sophiſtry of them; however, I ſhall only beg Leave to touch upon thoſe material Parts, which relate to my-ſelf, and my Defence to them.

And the Firſt Article which I find my-ſelf charged with, is, The Employing of one *Neyno* to draw up Three Memorials to the Regent of *France*, to ſolicite Foreign Forces to invade this Kingdom.

And for Proof of this, the Examinations of the ſame Perſon, which are neither upon Oath, nor ſo much as Signed by him (and whom the Committee of the Honourable Houſe of Commons have repreſented as a very infamous Fellow) are the only Evidence aſſigned againſt me.

This, my Lords, is the Crime! and *This* the Proof!

And though the bare mentioning of it, might be ſufficient to convince Your Lordſhips of its Weakneſs; however, ſince ſo great a Weight has been laid upon *this Kind* of Evidence in *another Place*, it will be neceſſary to be a little more particular about it.

The Two firſt of theſe Memorials (*Viz.* Thoſe before and after the *South-Sea Scheme*) are but ſlightly mentioned: But the One pretended to be drawn up in *December*, 1721. (and containing a Demand of 5000 Men) and a Letter ſaid to be written the *March* after (to amuſe the Government into a falſe Security) are the chief Things upon which any Streſs is laid.

And, how Falſe both theſe Allegations are, has, I don't doubt, evidently appeared to Your Lordſhips. For,

Had my Accuſer been really employed to draw up any ſuch Memorials, it is reaſonable to believe, that he would have kept Copies of ſome, and eſpecially of the Laſt of them; ſince a Perſon who turned Informer ſo ſuddenly after, may very well be preſumed to have had Thoughts of it for ſome Time before; and ſuch Papers would, no doubt, give great Weight to his Information.

But the Miniſtry have produced no ſuch Copies; neither do they pretend to have them: Which is a very great Indication, that there never were any ſuch Memorials at all.

Beſides, There are no Two of his Examinations of a Piece. Nay! he contradicts himſelf in almoſt every one of them. For,

In his Second Examination, he ſays, That theſe Memorials were *all* drawn up by the Order of one *Henry Watſon* (whom he really did not know, but took to be the late Earl *Mariſhall*) without making the leaſt Mention of me.

In his Third Examination, he ſays, They were delivered to me and *Watſon*; And in his Fourth, he ſays again, They were all drawn up by the Order of *Henry Watſon* ONLY. And, in a few Lines after, contradicts himſelf, and ſays, That the Heads of them were given to him by *me* and *Watſon*: Which are ſuch Incon-

Inconſiſtencies, as (Your Lordſhips will eaſily grant) are not to be reconciled: And if his Memorials were no better drawn than his Examinations, I believe, they were not likely to meet with any great Succeſs.

As to the late Earl *Mariſhall*, how reaſonable it is to believe, that a Perſon in his Circumſtances ſhould venture to come into *England*, and live ſo openly here, as to intruſt himſelf, and a Secret of this Nature, to a Fellow, who (by his own Confeſſion) did not know him, is humbly ſubmitted to Your Lordſhips.

And as for my Part, it is very plain, that I could have no Hand in them, ſince the *Minutes* in my Pocket-Book (in which I could have uſed no Diſguiſe) agreeing with the concurrent Teſtimony of *ſeveral Witneſſes*, plainly ſhew, That I was not in the Kingdom at the Times in which my Accuſer pretends to have been ſo employed.

For, by thoſe Minutes, and *their* Teſtimony, it appears, That I went to *France* the 23d of *November*, 1721. and did not return 'till the latter End of the next Month; And my Accuſer himſelf owns, in his Firſt Examination, That he did not ſee me after my Return, 'till the *January* following; which makes it impoſſible, That he could have been ſo employed by me in *December*, ſince I was moſt part of that Month out of the Kingdom; and the few Days of it that I was here, he owns, he did not ſee me.

Nor has the other Part of his Information relating to the Letter (which he pretends to have drawn up in *March*) better Grounds —— For, by the ſame Minutes, and by the ſame Evidence, it likewiſe appears, That I went to *France* the 22d of *February* after, and did not return 'till the middle of *April*, which makes it as impoſſible, that he could have been employed by me in *March*, ſince I was then likewiſe out of the Kingdom.

Had this Examination been taken at any Diſtance of Time, it is poſſible he might be miſtaken in it; but his firſt Information muſt have been about the middle of *April*, ſoon after my Return from *France*; For he confeſſed to the Perſon taken up with him at *Deal*, That he was the Firſt who ſet the Miniſtry upon intercepting Letters. And the firſt Letters ſo intercepted, are owned, in the 42d Page of the Report made to the Lower-Houſe, to have been the 22d of *April*, 1722. —— And, ſurely, he cannot be ſuppoſed to have forgot ſo ſoon, what happened the very Month before; eſpecially, ſince he has been ſo particular, as to name the very Day, *(Saturday)* upon which he ſays this Letter was ſo drawn up.

By all which it plainly appears, That this Article is not only Groundleſs, but evidently Falſe; And likewiſe, That he had no ſuch Intimacy with me (as the Report pretends) ſince he has declared, That I never ſpoke to him of the Conſpiracy; And that I could be a Month *at one Time*, and Two Months at another, out of Town, without his knowing any thing of it.

As to what is ſaid to his coming ſometimes to my Lodgings, I believe it may be true; but it has been fully proved, That his Viſits were never to me, but always to another Perſon, who lodged in the ſame Houſe.

And, I do ſolemnly affirm to your Lordſhips, That I never was acquainted with the late Earl *Mariſhall*, or with any ſuch Perſon who went by the Name of *Watſon*: That I knew very little of my Accuſer; ſo little, That I am confident, I never ſpoke to him Ten times in my Life; nor ever employed him in this or any other Affair whatſoever.

The Second Article Charged upon me, is, The carrying on of a Treaſonable Correſpondence for the Biſhop of Rocheſter.

And, for Proof of this, The Examination of the ſame Perſon is the only Evidence produced againſt me, wherein he ſays, That I frequently told him, the Biſhop was concerned in ſuch a Correſpondence; and that I managed it for him; with other Particulars not worth mentioning to your Lordſhips.

How reaſonable it is, that I ſhould tell ſuch a ſtrange Untruth to a Perſon that I knew ſo very little of; and what Credit ought to be given to his bare Aſſertion, who has affirmed ſuch Groſs and Notorious Falſehoods in the former Article, muſt be ſubmitted to your Lordſhips.

And, in my preſent unhappy Situation, I cannot but think it a very great and ſingular Happineſs, to have ſo Publick and Honourable an Occaſion of purging myſelf from ſo vile a Calumny, and of doing Juſtice to that moſt Worthy and Learned Prelate.

And I do ſolemnly declare to your Lordſhips, upon the Faith of a Chriſtian, That I never wrote or received a Letter of any kind for the Biſhop of *Rocheſter*, or was privy to any Correſpondence of his at Home or Abroad: That I never ſhewed him any Letter that ever I wrote to *France*, or ever ſent one there by his Privity or Direction: That I am very little known to his Lordſhip; went very rarely to wait upon him; ſo rarely! That I am confident few of his Servants know either my Name or Face; and have not ſeen him above Three or Four Times theſe Two Years paſt, and not above Eight or Ten Times in my whole Life.

I do farther declare, That my Viſits to his Lordſhip were always Publick; That I never went privately in a Chair to his Houſe; always found other Company with him, who were generally Strangers to me; and never once mentioned his Name, upon this or any other Account, to the Perſon who has thus accuſed me. Which, with the Evidence that has been produced of his own Confeſſions to that Purpoſe, is, I hope, ſufficient to convince your Lordſhips of the Truth of it.

And as for the Dog, which has been brought as a Circumſtance to prove this Matter, I do, in the ſame ſolemn Manner, declare, That he was given to me by a Surgeon at *Paris (whoſe Affidavit has been offered to be produced)* and who at that Time, I do verily believe, never heard of his Lordſhip's Name; And that he never was deſigned for any-body but the Perſon I gave him to.

And I appeal to the very Miniſters themſelves, if the *Britiſh* Reſident at *Paris*, (who is conſtantly attended by that very Surgeon, and examined him about it) has not confirmed the Truth of this Account to them.

I do farther affirm, That the Biſhop of *Rocheſter* never ſaw him; Never received any Letter or Meſſage by me, nor (do I believe) by any other Perſon about him: Neither did I ever know or hear, That his Lordſhip had any Intercourſe or Correſpondence with the late Earl of *Mar*, or any other diſaffected Perſon Abroad.

My LORDS,

It cannot be imagined, that I have any particular Intereſt or Concern in this Matter; for I never received any Favours from his Lordſhip; neither do I owe him any Obligations, but thoſe of Common Juſtice: And thoſe I ſhould perform,

where

where I have ſo much Truth of my Side, to the greateſt Enemy I have upon Earth.

As for the other Circumſtances which are brought to ſtrengthen my Accuſer's Examinations, and are ſet forth in one *Pancier*'s Depoſition. They will appear, I don't doubt, as Groundleſs and Inconſiſtent as the Examinations themſelves.

For, This Perſon ſwears, That another told him of this Conſpiracy; That Six or Eight Battalions of *Iriſh* Forces were to come from *Spain* to aſſiſt the Conſpirators. That 200,000 *l.* were raiſed, and 800 Men regularly ſubſiſted for this Purpoſe in *London*.

Theſe, My LORDS, are called, in the 38th Page of the Report of the Lower Houſe, *The Concurrent* and *Corroborating Proofs* of my Accuſer's Examinations: And I humbly appeal to your Lordſhips, if any one of them carries the leaſt Colour of Reaſon or Probability with it. For, can it be imagined, That ſuch a Force ſhould come from *Spain*, when there appears to be ſo ſtrict a Friendſhip betwixt the Two Kingdoms? Or, That 200,000 *l.* could poſſibly be raiſed among all the Diſaffected in *England*, in Caſe there was a Licenſe for it? Or, 800 Men regularly ſubſiſted in this City, without a Diſcovery?

Theſe are ſuch idle, inconſiſtent *Tales*, as (I am perſuaded) can never have any Weight with your Lordſhips.

Beſides, my LORDS, this is only bare Hear-ſay; And if the Hear-ſay of ſuch Infamous Perſons (or, indeed, of any Perſons) be look'd upon as ſufficient Evidence, I believe, no Man in *England* can be ſure of his Life or Liberty an Hour, ſince any Two People may talk him into High-Treaſon whenever they pleaſe; and the greater the Perſon is, the greater his Danger always will be.

The Third *Crime* which I ſtand charged with, is, The Writing of Three Treaſonable Letters for the Biſhop of *Rocheſter*, ſuppoſed to be for the Pretender, the late Earl of *Mar*, and General *Dillon*, which Letters are ſaid to have been ſent by me to Mr. *Gordon* at *Bologne*, with Directions to be delivered to one Mr. *Talbot*.

And, For Proof of this, the Clerks of the Poſt-Office are produced, who ſwear, That thoſe Letters were (to the Beſt of their Knowledge) written in the ſame Hand with an Original which was ſtopt as a Specimen of it: Which Original has been ſworn by Two Perſons to be my Writing, and, conſequently, thoſe Letters muſt be ſo too.

My LORDS,

Theſe Letters are dated the 20th of *April*, and the Specimen ſo ſtopt, the 20th of *Auguſt*; Juſt Four Months after.

And how it is poſſible for People (who receive ſuch a Number of Letters) to ſwear to a Likeneſs of Hand, at ſuch a Diſtance of Time; and what Weight ought to be laid upon this kind of Evidence; or upon that Modern and Myſterious one given by the Decypherers, in which they don't pretend to a Certainty themſelves, muſt be ſubmitted to your Lordſhips.

And as to the Perſons who have Sworn to my Hand, I hope it will be conſidered, That one of them is a *Meſſenger*, who never ſaw any of my Writing, but the Superſcriptions of a few Letters, which (your Lordſhips may eaſily ſee) do not bear the leaſt Likeneſs with what he has ſworn to.

Beſides,

Beſides, this very Perſon was turned out of his Employment upon my Account; and a few Days after he gave this Evidence in the Houſe of Commons, I ſaw a Paragraph in the News-Papers, that he was reſtored to it again.

And as to the other, it is to be hoped, That it will be likewiſe conſidered, That he is a Servant, who attended me only about Three Weeks, and was turned off for an Infamous Action, which he has acknowledged himſelf to have been guilty of. Beſides, he has confeſſed, That he never ſaw me write, but as he went backwards and forwards in the Room; and at ſuch a Diſtance, as not to be able to diſtinguiſh one Character from another: And it has been proved by Two Witneſſes, (one of which was a particular Friend of his own) That he declared, He never knew any thing of my Hand; but was Threatned by the Secretary of State into the Affidavit, which has been Printed to that Purpoſe in the *Appendix*.

And if that Paper had been my writing, it is impoſſible they could be reduced to a Neceſſity of making uſe of ſuch improper Evidence, ſince no Pains have been ſpared to procure better; ſince Numbers of People have been taken up, confined, and examined to this very Point; and *Newgate* ſent to, more than once, for Witneſſes to it.

And though it might be proved by the very Report of the Lower Houſe, That thoſe Letters could not have come from the Biſhop of *Rocheſter*; however, my Buſineſs is only to convince Your Lordſhips, That I was not the Writer of them, and of this, I believe, it is impoſſible to give clearer Proofs than I have done: For if thoſe Letters had been dictated to me the Twentieth of *April* (as the Report pretends) it muſt have been at his Lordſhip's Houſe in the Country; ſince it appears by the Depoſition of his Coachman, that he went there the 12th of that Month, and did not leave it till the 5th of *May*.

But it has been proved, that I was in *London* A L L that Time; and if it had been permitted, there is not a Perſon in the Biſhop's Family, but would teſtify, That I was not then at his Houſe in the Country; and, conſequently, could not have written any ſuch Letters for him.

Beſides, I have brought ſeveral Perſons of Credit and undoubted Characters, who have all teſtified, That the Hand in which thoſe Letters are ſaid to be written, is not mine, nor any thing like it.

An Affidavit has been produced from Mr. *Gordon*, That he never received any ſuch Letters from me, nor ever had any Correſpondence, or even an Acquaintance with me.

And it has been likewiſe proved, That Mr. *Talbot*, to whom thoſe Letters are ſaid to be delivered by Mr. *Gordon*, was in this Town the very Day upon which they are ſaid to have been delivered to him at *Bologne*: And if I had any ſuch Letters to tranſmit, can it be imagined, that I would truſt them to the Common-Poſt, when I had ſo good an Opportunity to ſend them by, or direct them to *Bologne*, when the ſame Poſt might as well have carried them to *Paris*.

Theſe are ſuch full, ſuch evident Proofs, as, I hope, cannot fail of giving Your Lordſhips the utmoſt Conviction in this Matter; and, conſequently, that this Article is, like the reſt, both Groundleſs and manifeſtly Falſe.

But,

But, if any Credit is to be given to the Confeſſions which my Accuſer made to the Perſon taken up with him, it is very plain, that thoſe Letters muſt have come from *another Quarter*; and, to ſay no worſe, were at leaſt calculated to carry on his own baſe and villainous Deſigns.

For it has been proved to your Lordſhips, that he Confeſſed to have been employed by one of the Miniſters, received 300 *l.* from him, and was to have 2000 *l.* more.

That this Miniſter declared a Perſonal Prejudice, upon ſome private Account, *to the Biſhop of* Rocheſter; *was reſolved to pull down the Pride of that Haughty Prelate, and to ſqueeze me* (as I think the Expreſſions were) *to that Purpoſe.*

My LORDS,

I ſay, if any Credit is to be given to this Confeſſion, there can be no great Difficulty in tracing out the Source of *this Part* of the Conſpiracy; and I am heartily ſorry to ſay, That there are ſome Circumſtances which ſeem to give but too great a Countenance to the Truth of it.

For, my LORDS, He made this Confeſſion at a Juncture when he may very well be ſuppoſed, to have ſpoken in the Sincerity of his Heart; when he ſaw his Villainy detected; believed himſelf to be in the greateſt Danger, and depended upon the Perſon's Aſſiſtance (to whom he made it) to help him out of his Misfortunes. —— And how particular this Proſecution; is, and how ſufficiently I have been *Squeezed*, are Things but too viſible, and too well known to the World.

Beſides, the very Cypher by which thoſe Letters were written, (*and which he owned to have received from that Miniſter*) was actually caught upon the Perſon to whom he gave it; and he confeſſed, That he put a Paper of Directions into one of my Drawers, by which, (the Report ſays) moſt of the Treaſonable Letters were Addreſſed.

And it has been proved to Your Lordſhips, That thoſe Drawers were conſtantly open, and that he made ſome Pretext for being alone in my Lodgings, the very Night before I was firſt taken up.

And ſince he was the firſt that ſet the Miniſtry upon Intercepting Letters, which he ſaid were mine; it is very extraordinary, that ſuch a material Part of his Evidence ſhould be omitted in his Examination; or, that the very firſt Letters ſo intercepted, ſhould be thoſe alledged againſt the Biſhop of *Rocheſter*: And if the Originals of thoſe Three Letters were ſtopt, I don't at all doubt, but they might be proved to be my Accuſer's own Hand-writing.

And how ſtrong a Senſe he had of his Guilt, by attempting an Eſcape, which proved fatal to him, and how viſibly the Hand of God has interpoſed in that Eminent Prelate's Favour, by taking one of the Perſons (deſigned for his Deſtruction) out of the World, and giving the other *Grace* and Virtue enough to withſtand all Temptations to his Prejudice, are Things highly worthy of Your Lordſhips juſt and moſt ſerious Conſideration, and no ſmall Indication of his Innocence.

And as to the Money which my Accuſer owned to have received; That there was a very ſudden and extraordinary Change in his Condition; That, from the loweſt State of Poverty and Want, he ſoon arrived to that of a Vicious and moſt Profligate Affluence, is a Truth ſufficiently known to all thoſe that were acquainted with him.

But from whence this Change proceeded, or what real Grounds he had for aſperſing that Honourable Perſon, I will not pretend to ſay: But if thoſe Aſperſions be falſe (as I wiſh they may) it may be juſtly inferred, That a Fellow who was capable of vilifying one Perſon, may very well be judged as capable of doing ſo to another: And if his Veracity is not to hold good in one Caſe, there can be no Reaſon for allowing it in the other.

The Fourth Crime alledged againſt me, is, A Number of intercepted Letters, ſuppoſed to be written to and received from the late Earl of *Mar*, General *Dillon* and other Diſaffected Perſons Abroad.

And for Proof of this, a *Frenchman* has been produced, who ſwears, That he once ſaw me take up a Letter at *Burton*'s Coffee-houſe, by the Name of *Baker*, which Name (it is ſaid) ſome of the Treaſonable Letters were addreſſed by; and was, in a Paper of Directions, found in my Lodgings.—— How that Paper came there, has been already proved to Your Lordſhips.

And as to the Perſon who has ſwore to this Particular, I muſt obſerve, That when he gave this Evidence to the Houſe of Commons, he did not know me, tho' he ſpoke to me, and look'd ſeveral times earneſtly at me; and for the Truth of this, I can appeal to moſt of the Members of that Honourable Houſe, who were Witneſſes of it: And he would ſtill have probably continued in his Ignorance, if ſome private Hints, (as I have been told) were not given him, or the ſame Method taken which has been done with a Number of other ſtrange Fellows, who were frequently ſent to the *Tower*, and had no other Buſineſs but to take a View of me.

Beſides, the People of the Coffee-houſe have teſtified the contrary, and that no ſuch Letter ever came to their Houſe. And tho' it be ſet down in my Examination before the Council, That I confeſſed to have taken up ſuch a Letter, I humbly appeal to my Lord Chancellor (if it can be worth his Lordſhip's While to recollect it) If he did not ask me that very Queſtion two or three times? And if I did not as often deny it? Neither is this the only Particular that is falſely ſet down in that Examination. And I do ſolemnly affirm to Your Lordſhips, That I never did receive any ſuch Letter, nor ever ſaw that Paper of Directions, 'till it was Printed in the Report.

And there is one Circumſtance pretty Remarkable in this Correſpondence, That as it began with my Accuſer's Information, ſo it ended with his being taken up. For immediately after a new Correſpondence is pretended to be diſcovered; and to fix this likewiſe upon me, it has been ſuggeſted, that I ſent Cyphers by Sir *Harry Goring* to *France*, and had Letters directed by them to *Sturgeſs*'s and *Slaughter*'s Coffee-houſe.

But, my LORDS, no ſuch Cyphers were found in my Cuſtody, nor any Papers relating to ſuch a Correſpondence, and the People of thoſe Coffee-houſes have all ſworn, That I never Ordered any Letters *of that kind* to be taken in, or received one, either by my own or any other Name from them. Nay! one of them has ſworn, That no ſuch Letters ever came to his Houſe at all; and the other ſays, That a Meſſenger from the Secretary's Office, was the only Perſon that ever called at his Houſe for thoſe directed to it.

And as to the Printed Examination of one Mr. *Caryl*, to this Purpoſe, it were to be wiſhed, That this Gentleman's Reaſons had been publiſhed, as well as his Accuſation.

For I am confident, he will not pretend to ſay, That ever he ſaw me write a Line in his Life, or give a Piece of Paper of any kind to Sir *Harry Goring*; and what Reaſon he could have for believing that we ſettled a Key for ſuch a Correſpondence, is very extraordinary: Nor have the other Particulars which he has affirmed, the leaſt Foundation of Truth; For I do ſolemnly averr to your Lordſhips, That I never ſaw *Sample* in my Life, or gave Captain *Bonin* any ſuch Letter of Recommendation: Neither had I ever the Honour of ſpeaking to my Lord *North and Grey*, or of being any ways known to his Lordſhip; and that I ſhould mention him ſo familiarly by the fictitious Name of *Johnſon*, (and which, of all Names, I ſhould never make uſe of in that manner) will, I hope, appear very incredible to Your Lordſhips; eſpecially ſince Mr. *Caryl* himſelf has furniſhed ſo good a Reaſon for the Disbelief of it.

For he has likewiſe affirmed, That my Examination before the Council was read at Doctor *Talden*'s Houſe: The Doctor has indeed already done me Juſtice in that Point; and Mr. *Tucker* (who was all the while in Company) will, I am very ſure, do the ſame.

And ſince Mr. *Caryl* appears to be ſo plainly miſtaken in this Particular, ſurely he may very well be ſuppoſed to be ſo in all the reſt, eſpecially ſince he has not aſſigned the leaſt Reaſon for any of 'em.

As to the reſt of the intercepted Letters, the People of the ſeveral Coffee-houſes have likewiſe cleared me from them; and all teſtify, That they never delivered me any ſuch Letters, or received any Directions from me about them; which, I hope, will be ſufficient to convince Your Lordſhips, That I was not concerned in any ſuch Correſpondence, eſpecially ſince no Letters of this kind were found in my Poſſeſſion, nor any other Papers relating to the Conſpiracy.

There are two other Crimes, in which I moſt humbly crave Your Lordſhips Patience to be heard, becauſe they are the blackeſt that can be imagined, and ſeem to be Perſonal.

The Firſt, is a Letter directed to Mr. *Gordon* at *Bologne*, with two Affidavits, which have been Printed, and are ſuggeſted to be ſent by my Directions, in order to have him and one *Birmingham* perjure themſelves upon my Account: —For in this Letter it is ſaid, *That the Incloſed is a Copy of a Note from the Perſon concerned, with what he thinks requiſite.*

My LORDS,

This Letter is dated the 20th of *March*, at which Time, and for Five Months before, I never was allowed the Uſe of Pen, Ink, or Paper, or the Liberty of ſeeing any Perſon that could poſſibly have conveyed ſuch a Note for me; for I have been guarded in a different Manner from other People in the *Tower*: My Warders were put into the very Room with me, and ordered never to ſtir a Moment, Night or Day, out of it; which Orders they punctually obeyed, and were conſtant Witneſſes to all my Actions.

And thoſe Warders will depoſe, That, they believe, it was impoſſible for me to have written or ſent out any ſuch Directions; and the Officers, I don't doubt, will do me the ſame Juſtice.

And

And when my Solicitor was admitted, finding that Mr. *Gordon*'s Affidavit might be of uſe, if allowed as Evidence, a Perſon was immediately diſpatched, and who brought it in a different Form from thoſe which have been Printed. And my Solicitor can teſtify, That no Draughts were ſent by him; which, with the groſs Management of the Perſons concerned in this Affair, is, I hope, ſufficient to give your Lordſhips the cleareſt Conviction of my Innocence in it. And I do ſolemnly affirm, That I never knew any Thing of them; never heard of the Name of *Akenhead* before; nor can I find out any Perſon (beſides the Maſter of that Veſſel) that ever did.

The other Crime is ſet forth in one *Levett*'s Depoſition in the Report made to this moſt Honourable Houſe: Wherein (among a great many other moſt notorious Falſehoods) ſhe ſwears, That one Mrs. *Barnes* told her, That I was inſtrumental in, or privy to the ſhutting up of a Perſon in a Dungeon, for Fear of his turning Informer; and not only of him, but of 200 more upon the ſame Account. Which, I believe, is the moſt ſurprizing Crime that ever yet was alledged againſt any Chriſtian.

Mrs. *Barnes* denies every Syllable of this Converſation; and if the Perſon that ſwears this againſt her, had been produced, ſhe would be proved to your Lordſhips, to have been a vile infamous Creature all her Life. And if ſhe is to be believed, or that your Lordſhips can think it poſſible there can be the leaſt Truth in her Depoſition, it will be a Sin to let me live, and impoſſible to find out a Puniſhment too Cruel for me.

Theſe, my Lords, are the Chief Crimes which I am charged with; and very great ones they are, had they been in any Degree made out againſt me.

I am a Stranger to the Methods of Legal Proof, but have been told by my Council, That the greater a Perſon's Crime is, the clearer the Evidence ought to be againſt him; and how weak and inſufficient the Proofs produced for this Purpoſe are, and how clear and convincing thoſe which have been offered in my Juſtification, has, I hope, evidently appeared to your Lordſhips, and given you intire Conviction of my Innocence; and that all the Crimes alledged againſt me, are without the leaſt Colour or Foundation of Truth.

But how much I have ſuffered for theſe *ſuppoſed* Crimes; and what extraordinary Means have been made uſe of againſt me, are Things much worthier of your Lordſhips Judicial Conſideration.

To be taken up and held to exorbitant Bail, without ever aſſigning any particular Crime againſt me; To ſuffer a Long and Cloſe Confinement, where the Expence bears no Proportion to my Circumſtances:

To have Numbers of People, and ſome of them, Creatures of the meaneſt Rank and Condition, taken up, examined, and *tampered* with upon my Account; and *Newgate* ſent to for Witneſſes:

To have a Servant (who was turned off for his Ill-Behaviour) brought as an Evidence; and my moſt intimate Friends Impriſoned for not ſwearing againſt me; Are Hardſhips and Proceedings, I believe, hitherto unheard-of in *England*; and ſuch as, I hope, your Lordſhips will, in your great Wiſdom and Juſtice, think fit to redreſs. All which is of a Piece with an infamous Offer made to myſelf by one of the Under-Secretaries of State, who, the Morning after I was firſt

examined,

examined, came to me with a Meſſage (as he ſaid) from one of his Superiors, to let me know, That I had now a very good Opportunity of ſerving myſelf; and that he was ſent to offer me my own Conditions.

And when I declared myſelf an intire Stranger to the Conſpiracy, and was ſorry to find that Noble Lord have ſo baſe an Opinion of me, he ſeemed to wonder, that I would neglect ſo good an Occaſion of ſerving myſelf, eſpecially when I might have any Thing I pleaſed to ask for.

What Authority that Perſon had for this Meſſage, or the reſt of his After-Proceedings, I will not pretend to ſay: But as I have been Ruined and utterly Undone by them, I hope your Lordſhips will take my Sufferings, as well as Circumſtances, into Your Conſideration; and, inſtead of Inflicting any farther Pains or Penalties, look upon me (as I really am) a Perſon highly Injured, and not a Criminal concerned in any Tranſactions againſt the Government.

As for my Circumſtances, they are but too well known in the World.

And here I cannot omit my Gratitude to the late and preſent Conſtables of the *Tower*; for the late Conſtable (though I never had the Honour to ſee his Lordſhip) was, upon a Repreſentation of my Circumſtances, ſo very good, as to procure me the Promiſe of an Allowance from the Government; and his Lordſhip, the preſent, has been ſo kind as to get it paid: But the Officers of the Place can *teſtify, That this Allowance has not been converted to any Private Uſe of mine, but conſtantly given to the Perſons appointed to attend me.* And I muſt take Leave to aſſure your Lordſhips, That it has coſt me more ſince I was ſent there, than the Government have now left me really worth in the World; and I muſt ſuddenly become a Sacrifice to my Neceſſities, if not ſet at Liberty by your Lordſhips great Clemency and Compaſſion.

If I have dropped any Expreſſions which may not be ſo agreeable to ſome particular Perſons in Power, I could wiſh that my Defence had not laid me under that Neceſſity: And I do ſolemnly proteſt, That they have not proceeded from any Reſentment for my Sufferings; but from a Sincere Endeavour to give your Lordſhips the cleareſt Conviction of my Innocence. And ſince I could not merit their Favour, I ſhall always endeavour to preſerve their good Opinion.

As to the Legality of *theſe* Proceedings, and the Danger of making Precedents of this Kind, thoſe are Things which have been already fully ſet forth by my Council, and muſt be ſubmitted to the great Wiſdom and Juriſdiction of this moſt illuſtrious Aſſembly: An Aſſembly! which is not only the Higheſt and moſt Honourable, but the Uprighteſt and moſt Impartial, I believe, upon Earth, and whoſe Juſtice has ever appeared as extenſive as their Power.

The great, and, indeed, the *only* Argument which I have heard offered for the paſſing of this Bill, is, That the Occaſion is Extraordinary; That your Lordſhips are in your Legiſlative Capacity; and though the Proofs may not be ſo legal, however, *in Terrorem*, it is neceſſary to paſs it.

But I humbly beſeech your Lordſhips to conſider, Where the Extraordinarineſs of this Occaſion lies? —— Has there been the leaſt Commotion in any Part of the Three Kingdoms? Or any Perſon injured in his Liberty or Fortune, beſides thoſe who have been ſo unhappy as to fall under this Suſpicion?

REMARKS
ON
Mr. *KELLY*'s
LATE
SPEECH
AT THE
BAR of the *HOUSE of LORDS.*

BEING

A Collection of all the *Papers* publiſh'd in the LONDON JOURNAL upon that Occaſion,

By BRITANNICUS.

LONDON,
Printed by W. WILKINS, at the *Dolphin* in *Little Britain*; and Sold by J. PEELE, at *Locke's Head* in *Pater-noſter-Row*. 1723.

[Price One Shilling.]

ADVERTISEMENT.

THE following *Remarks* upon Mr. *Kelly*'s Defence at the *Bar* of the *Houſe* of *Lords*, are now reprinted together, in ſuch manner that They may be preſerved and bound up with his *Speech*, and other *Papers* relating to the *Late Conſpiracy*, by Any who think it worth their while to ſee, or hear, on *Both Sides*, before They form their own *Judgments* about what has paſs'd upon ſo remarkable an Occaſion. They were firſt written with no other Deſign, but that of vindicating *Juſtice*, and *Truth*, and *Religion* itſelf, from the *Great Hurt* done to them, by ſuch open *Miſrepreſentations*, *Falſhoods* and *Prevarications*, as I believe never yet met together in any *One* Speech, *before* Mr. *Kelly* made his *Defence*. *After* it, indeed, in a very few Days, They were out-done by the *Superior Genius* of a *Greater Man*: as may be fully ſhewn in due Time. If there be amongſt them *One* ſingle *Remark*, which has done Mr. *Kelly* wrong, in the loweſt degree, or the ſlighteſt manner; it ought in common Juſtice to be publickly rectified, upon the firſt better Information: and it ſhall be ſo, without the leaſt Scruple, or Delay. If in the main, and as far as the *Publick* is concern'd, They are founded upon *Evidence*, *Reaſon* and *Equity*; They will remain, on one Hand, as *Teſtimonies* againſt *His Treaſon*, as well as againſt His *Baſe* and *Unmanly* Manner of *Defence*; and, on the other Hand, as *Teſtimonies* of the *Patience* and *Unbiaſſedneſs* of his *Judges*, and of the *Well-grounded Juſtice* of the *Sentence* They paſs'd upon Him. At leaſt, It is hoped, They will be received as *Teſtimonies* of the *Writer*'s ſincere *Love* to his *Country*; and of his hearty Deſire that ſo great and neceſſary a *Tranſaction* may not be tranſmitted down to *Poſterity*, only under the moſt odious Colours with which the *Conſpirators* Themſelves have painted it out: but be accompany'd at the ſame time with ſome of the plain *Advantages* of *Honeſt Simplicity*, and *Undiſguiſed Truth*.

BRITANNICUS.

REMARKS
ON
Mr. *KELLY's* SPEECH.

PAPER I.

I AM now diverted from going on with the remaining *Letters* (upon the *Subject* of the *Two laſt*,) by the *Publication* of Mr. *Kelly's Speech*, deliver'd *May* 2. at the Bar of the *Houſe* of *Lords*, in Oppoſition to the *Bill* ſent up by the *Commons*, and afterwards paſs'd by the *Lords*, againſt Him. When theſe late *Proſecutions* by *Parliament* were firſt enter'd into, I thought I could not do any thing more juſtly for my own inward Satisfaction, than to be Witneſs to what was ſaid and done upon this Occaſion, as far as it could be; and particularly in the *Houſe* of *Lords*, to which the Strength of the *Defence* was reſerv'd. And ſuch was the Openneſs of the Proceeding, with regard to the whole *Examination* of the *Evidence*; and ſuch the Indulgence of that Honourable *Houſe*, with regard to *All* the Main *Debates*, and *Several* of the *Leſſer*, that there was no great Difficulty in hearing with my own Ears whatever was neceſſary for my own Satisfaction.

When Mr. *Kelly* ſpake his *Defence*, I cannot help owning, that the *Gentility* of his *Addreſs*, the *Tone* of his *Voice*, the *Modeſty* of his whole *Geſture*, mov'd me enough to make me often wiſh that He might *prove* Himſelf as *Innocent*, as He *pretended* to be: though not enough to make me forget the *Evidence* of the contrary. Theſe *Graces* are indeed all vaniſh'd, ſince it appear'd in *Print*. But I could not but even in the *Delivery* of it, remark the Unfair *Dexterity* of the *Speaker*; and, I remember, I ſaid to Myſelf, more than once, as His Defence went on, "This *Method*, indeed, may be excuſable in *One*, who is now for the laſt Time ſpeaking for his *Liberty*. It may be *pardonable*, in the *Opinion* of the World, *before* the *Bill* is paſſed, in a Man, accuſed of *Treaſon*, to attempt to colour over his Conduct even with *Prevarications*, and *Falſhoods*, and *Recriminations*; and to try all his Art to gain the Inclination of his Judges, before They can further conſider. But ſurely a Man, who is Himſelf *One* of the *ſacred Order*; a Man, who ſpeaks of the *Faith* of a *Chriſtian* ſo ſeriouſly; and who puts on the Aire of *Conſcience* in his whole *Deportment*, will not,—— cannot, *after* the paſſing of the *Bill*, ever conſent to the *Publication* of what He Himſelf knows to be a *Partial*, *Unfair* Repreſentation of his Caſe; and a Groundleſs Satire upon the *Supreme Authority* of the *Nation*. But I now find it otherwiſe: and am confirm'd in my Notion of the Nature and Extent of ſome *Mens* Conſciences, by ſeeing it more and more plainly every Day, That there are *Thoſe*, whoſe *Conſciences* (as They tell You) will not ſuffer Them to take the *Oaths* of *Fidelity* to the *Government*; whoſe *Conſciences* will yet, at the ſame time, permit Them to publiſh the *Vileſt Falſhoods* and moſt *Unchriſtian Calumnies*, which can but affect and ſhake It. Their *Conſciences*, Good Men! will *not permit* Them even to be *Quiet*, for the Benefit of a *Government*: but the ſame *Conſciences* will not only *permit*, but *engage* Them to break through the *Laws* of *Juſtice* and *Charity*, to annoy and weaken it. We have an Inſtance now before Us. For, on *one* Side, if a Man were only to read Mr. *Kelly's Speech*, and (as the Multitude are apt to do) to take it for a *true State* of *his own* Caſe, and of the *Arguments* of his *Accuſers*; He can have no other *Idea* of Some in the *Adminiſtration*, but that They are *Wicked* beyond all the Degrees of former Wickedneſs; and no other Notion of a very great Majority of the *Two Houſes* of *Parliament*, but either that They are *Ideots*, not able in the leaſt to diſcern a *Groſs Forgery* from a *Reality*; or that They are a Sett of *Abandon'd Wretches*, void of all the *Common Principles* of Juſtice and Honour.

Honour. And yet, I will at the ſame time affirm, and prove, on the *other* Side, that the *Wickedneſs* lies all ſomewhere elſe; and particularly, that the *Guilt* with which Mr. *Kelly* was charged, upon *Evidence* which He has entirely paſſed over, is more ſtrongly fix'd upon *Him* by the *Guilt* He has wilfully aſſumed, in his *Manner* of *Defence*. And this forces Me to add, that, as there is often an *Outward Semblance* of *Humility*, which covers under it the ſtrongeſt *Pride* of Heart; ſo, there is ſometimes an *Outward Modeſty* of Appearance, where there is an *Inward Impudence* of *Soul*, and a *Searedneſs* of *Conſcience* within.

I will own indeed, That a Man *perfectly Innocent* of what was charged on Mr. *Kelly*, though He might truſt to the *Nature* of Things, and to the Impoſſibility of a *Number* of *Forged Circumſtances* all concurring to his Condemnation; though He might depend upon the *Impoſſibility* of his ſuffering in the Method of *Proceeding* uſed againſt this Perſon, in which *Patience* and *Temper* never were wearied: yet is not obliged to do ſo. He has a Right to make Choice of any *One* Honourable Method of *Defence*, as better than *Another*. But this I will ſay, that if any *Accuſed Perſon* makes that *Method* of *Defence* his Choice, which a *Guilty Man* only ſtands in need of; He cannot do this, without giving too plain a Proof of That *Guilt*, which alone could determine Him to do it. And this I will add, that if *Any* ſuch Perſon, *after* his Oratory has not been ſucceſsful enough to hinder his *Conviction*, ſhall wilfully publiſh what He knows to be *Falſe*, to load his *Judges* with *Calumnies*, or the *Government* with *Injuries*; He may talk of *Conſcience*, and the Faith of a *Chriſtian*, if He pleaſes; but He knows nothing either of the Rules of the *One*, or the Influences of the *Other*. If we read over this *Speech*, it will be eaſy to apply theſe Obſervations.

The *firſt* and moſt acknowledged *Art* of a *Guilty Defence*, is the *Art* of perpetually avoiding *All* that is moſt ſtrongly and chiefly urged againſt a *Man*; and of dwelling with Earneſtneſs and Vigour only upon *That*, which either was never urged at all againſt Him, or only very faintly, and not with any Weight laid upon it, but under ſeveral Reſtrictions; which He never once mentions. This is an *Art* indeed; the *Art* of putting out of Sight the *principal* Conſiderations, which ought to be always in View. It is the *Art* of *Guilt*, and the *Sign* of *Guilt*: eſpecially when it ſhall appear that, take away All that comes under this Obſervation, there will remain but very little in the *Defence* of the Perſon *Accuſed*, which has the *Form* or *Deſign* of an *Argument*. A Man *perfectly innocent*, could not once have it in his Thoughts to make uſe of ſuch Arts: becauſe He would know that his whole Strength muſt lie in confuting the *Strength*, and not the *Weakneſs*, of his *Adverſaries*; and that his *Innocence* puts it in his Power to do it.

To apply this; Mr. *Kelly*'s *Speech* conſiſts of *Thirteen Pages* in *Folio*. Of theſe *Thirteen* Pages, there is not above the Quantity of *Two*, which relate to *Any Evidence* urged againſt Him: *viz.* Part of the *Seventh*, the *Eighth*, and Part of the *Tenth*. How dextrouſly the *reſt* are employ'd, We ſhall preſently ſee, if We call to mind the main Parts of the *Charge* againſt Him; *viz.* That, at the Time of his being apprehended, He made *Reſiſtance* to the *Legal Officers* of the *Crown*; and threatned the *Life* of One of Them: That He afterwards, more than once, attempted to corrupt the Perſons, in whoſe Houſe He was confined, by the Offers of a good Sum of Money and a Gold Watch, in order to procure his *Eſcape*: That Three particular Treaſonable Letters intercepted, were *His* Hand-writing: That He receiv'd *Letters* from abroad, in Anſwer to thoſe writ by Himſelf, by *Fictitious Names*; and ſome other Particulars. Inſtead of anſwering to the *Subſtantial Evidence* upon theſe Points, his *firſt Art*, as I have ſaid, is to run into *Matters not at all charged* upon Him by the *Bill*, or the *Counſel* for it. Thus, for Inſtance, He ſpends many *Paragraphs*, and even *Pages*, upon *ſeveral Paſſages* in the *Printed Reports*; which He was ſenſible He might the more ſafely *now* combate, becauſe, being not preſs'd upon *Him* by the *Counſel* for the *Bill*, He very well knew the *Counſel* would not enter into a particular *Defence* of Them, at a Time when They had not open'd any ſuch Matters againſt Him; and when it was their proper Buſineſs to defend what They *had* open'd as the Ground of this *Bill*, and not what They *had not*. This, I remember, was often repeated, but to no Purpoſe: for Mr. *Kelly* well knew that, on the contrary, *His* Chief Buſineſs was to anſwer to what was *not* urged againſt Him, and not to what *was*; and that his *Only Play* was in this Artifice. And ſo We find it. *Pages* 4, 5, part of 7 and 11, refer to nothing but *Paſſages* in the Printed *Reports* of *Both Houſes*, not once mention'd in the preſent Charge againſt Mr. *Kelly*; not once inſiſted upon, by the *Counſel* for the *Bill*.

In the 4th *Page*, He enters upon the *Charge* againſt Him, as He calls it, of his employing one *Neynoe* to draw up *Memorials*: and laboriouſly endeavours to confute it, as well as He can. But whoever had heard only the *Charge* laid againſt Him at the *Bar*, and *That* to which alone He was required to anſwer, muſt have wonder'd at all this. For there was not the *Shadow* of any ſuch *Charge* againſt Him; nor indeed any *Charge* at all relying *entirely* upon *Neynoe*'s Credit. He then goes on to the Story of the Earl *Mariſhall*; and to a *Letter*, of which Mention is made in *One* of *Neynoe*'s Examinations. Here again He *roves* from the *Charge* againſt *Himſelf*, and buſies Himſelf in doing of *Nothing*; or in impoſing on his *Judges*. For His Judges were confined to the *Charge* againſt Him at their own *Bar*: and were not obliged ſo much as to know, or remember, any thing but what ſhould appear *there*, either *for* or *againſt* that particular *Charge* only. Upon the ſame Foot, All that He ſays about Mr. *Caryl*,

in

in p. 11. must be thrown out as impertinent to his *Defence*; as what not only was never brought as any *Charge*, or *Reason* for the *Bill*, but as what the Counsel *for* it could not reply to, without being highly irregular. The same is to be said upon his Triumphs over *Pancier's* Deposition, p. 7. which never was once mention'd on the *other* Side. This *Proceeding*, I say, is the *Proceeding* of *Guilt*, and not of *Innocence*: and is no better than if a Man indicted of killing *One* Certain Man, should spend his own Breath, and the *Time* of the *Court*, in shewing that He did not kill *Another* Man, as, He was inform'd, it had been *reported* of Him abroad.

It is fit particularly to take Notice of Mr. *Kelly's* labour'd Attempt to invalidate *those Parts* of Mr. *Neynoe's Examinations*, which were not at all depended on; not at all urged, nor in the least degree press'd against him; nay, not so much as mention'd by the *Advocates* for the *Bill*: because it is fit to set right the great Mistakes and Misrepresentations upon that Head. The *State* of that *Evidence* was *This*, and *only* This: for I took very great Notice of it, and heard it repeated many Times. Mr. *Neynoe* was allow'd by Mr. *Kelly's Prosecutors*, to be a *False Man*; a determin'd *Jacobite*, who pretended to give Information to the *Government*, in order to get some Money for Himself. Out of all his *Informations*, only *One* was read; and That more in Proof of the *General Conspiracy*, than to any other Purpose. For, not *One* Fact was believed, not *One* was insisted on, because *He* had said it; but only because it was True, and was confirm'd to be True by other concurrent Evidences; and was a Proof that, deceitful as He was, He knew a great deal of the Affair, though he mixt it with much Impertinence, and some Falshood. *Those Parts* particularly of his *Examinations*, to which Mr. *Kelly* so laboriously answers, were so far from being *urged* against Him, as *Reasons* for the *Bill*, that most of them were not so much as *read* in Proof of the *Charge*. But as They were all fairly printed in the *Report* of the *House* of *Commons*, for this Reason, that it might not be said that Any thing, given in as *Information*, was hid from the World; Mr. *Kelly* thought it to his Purpose to make what Use He pleas'd of them. And indeed, it is very true, that if there had been any need of it, He had a Right to shew, by any *One* Part of Mr. *Neynoe's Examinations*, that He was not to be *credited* in *Another*, upon his own Authority only. But He knew, there was no need of it. For it had been declared more than once, that He was *not credited*, upon his own *Authority*, in any *One* thing, except his Confession that *He Himself* was privy to the *Conspiracy*: Nay, even in *This*, that Some other *Points* declared by Him were taken in as *Proofs* that He was so, because They were Points of Importance *otherwise* known to be true, and which *Neynoe* could not have hit upon, but by being *privy* to the Design; and that *Nothing* was alledged against the *Prisoner*, merely because *Neynoe* had said it.

But the true Secret was this, That if Mr. *Kelly* should have acted a plain honest Part in this Case, His main Artifice would have been spoilt; and the Great *Machine*, now resolved to be made use of by *Himself* first, and afterwards by the *Bishop* of *Rochester*, would have been ruin'd, and broke to Pieces. For how could They possibly, in so disingenuous, so inhumane, and so unchristian a Manner, (without any one Proof, or any one Shadow of a Proof,) have by Slight of Hand turn'd the Whole into a *Plot* of *Neynoe* and a *Minister* of *State*, laying their Heads together for the Destruction of Mr. *Kelly* and his Great Friend; if They had not attempted to divert the Thoughts of their Judges from *Something* to *Nothing*; from strong Evidence *urged* against Them, to all *Neynoe's* Impertinence *never once urg'd*? This is Another Instance I design to give of that *Art* of *Defence*, which only can belong to *Guilt*, and never could have come into the Head of *Innocent Men*. This appears to be their *Master-Piece*. The Consideration of it I will reserve for my *next* Paper: But I will *now* say thus much of it, that It is a *Master-Piece* of *Wickedness*, more than *Art*; and therefore, a *Machine* which will, in its *Ruin*, fall heavy on the *Heads* of Those who contriv'd it; and help to punish their *Old Guilt* in what They *were* charged with, by shewing it aggravated and heightened by *That New Guilt*, in which They have voluntarily chose (with the *Silliness* often attending *Cunning Men*, and the *Folly* always attending *Wicked Men*) to defile Themselves.

For such *Adepts* in *Iniquity*, though under the Cover of a *Holy Function*, and many *pious Professions*, as if all *Art* was far removed from their Breasts, *cannot* escape. And since both Mr. *Kelly* and his *Master* have Themselves manifestly brought their Cause to this *Unhappy Dilemma*, "Either this *Charge* against Us, and the *Evi-* "*dence* for it, is all Mere Forgery and Inven- "tion, between *Neynoe* and a *Minister* of *State*; "or We are *guilty*, and prov'd so to be." Since, I say, instead of answering like *Men* to the *Strength* of the *Evidence*, They have wilfully made this their Case; and fled from the Proofs of their own *Innocence*, to Black and Detestable Insinuations and Outcries against *Others*; let it rest here. It is made necessary by their own *Conduct*, to enter into this *Argument*. And if it can be evidently shewn, that this *Suggestion* is void of *all Support*; that *Nothing* led Them to it that appear'd in *Evidence*; that it was demonstrated to be *impossible* by what *did* appear in *Evidence*; that it is irreconcileable with their own Design in invalidating *Neynoe's* Credit; that it is inconsistent with many Parts of the *Evidence* against Them, which were too strong to be so much as mention'd in their *Replies*; as well as with some Parts even of *their own* Evidence: *If these* Things can be made out, (as They certainly can;) They must thank *Themselves*, if it must appear at the same time, That *Guilt* once set on Work, knows no Bounds; that

that *Wickedneſs* cannot be defended, but by New Wickedneſs; that They cou'd be led to this *Invention* only by the *Deſperateneſs* of their own Cauſe, and Vileneſs of their own Reſolution to leave a parting Wound in that *Government* which They could not at preſent deſtroy: and that *This* can end in Nothing but their own *Confuſion*; the *Deteſtation* of Good and Honeſt Men of *All* Parties; and the *Greater Honour* of Thoſe who are thus ſtruck at, againſt all the Rules of *Religion*, and *Common Juſtice*.

BRITANNICUS.

P. S. Though I have here thrown out of the Caſe, what Mr. *Kelly* has ſaid and inſinuated againſt *Many Paſſages* in the *Reports*, not urged againſt Him, and particularly ſuch as relate to *Neynoe*, in order to ſhew more diſtinctly how little he has ſaid to what was really urged; yet I have not done this, to avoid theſe Particulars. For I ſhall return to Them, and ſhew that even in *Theſe*, as well as in Other Inſtances, He has vilely miſrepreſented the *Caſe* throughout, and impoſed upon the World in a ſhameleſs Manner.

PAPER II.

THE *Grand Machine*, by which Mr. *Kelly* and his *Maſter* the *Biſhop* of *Rocheſter* have choſe to defend *Themſelves*, I have obſerv'd, is *One* and the *Same* Infamous Accuſation and Repeated Inſinuation of *Forgery*, fixt upon Thoſe who have done their Country the trueſt Service in detecting the late *Conſpiracy*. This I produced as One of the Greateſt Inſtances poſſible, of the *Art* of *Guilt*, delighting it ſelf in a Method of *Defence* which an *Innocent Man* could not pitch upon. And as their *Agreement* in this *Artifice*, is a Proof that they looked upon Themſelves as United together in *One* and the *Same* Cauſe; Let Them now equally partake in the *Effect* of their own Choice; and remain as inſeparable in the *Guilt* of ſuch a Juſtification, as They were in the *Guilt* which forced Them to take Refuge in it. A *Guilt*, in my Opinion, as great as can well be expreſs'd or imagin'd: For, To *publiſh* to the World ſuch an *Imputation* upon an Adminiſtration, *without* the *Strongeſt* Proof, is what Every *Good Mind* would have avoided, as an *Unjuſtifiable* Calumny. To *publiſh* it, without *Any* Proof, is what Every *Good Mind* would have abhorr'd, as a Baſe and Ignominious *Wickedneſs*. But to *publiſh* an Imputation of ſo black a Nature, *againſt* plain and demonſtrative Proof,——This ſhews a *Mind* dead to all Senſibility of Duty, and determin'd to ſacrifice Every Spark of Honour and Conſcience within, to its own Darling Cauſe, or Perſonal Reſentments. Let us ſee, if This be not the Caſe here.

Mr. *Kelly* begins the Attack openly, *p.* 9. in this Manner. *But if any Credit is to be given to the Confeſſions which my Accuſer* [Neynoe] *made to the Perſon taken up with Him* [*viz.* Bingley] *it is very plain that thoſe Letters* [*viz.* the *Three treaſonable Letters* charged upon Mr. *Kelly*, as his Hand-writing] *muſt have come from Another Quarter*——Then comes the Application. *For*, ſays He, *it has been proved*——*that* Neynoe *confeſs'd* [to *Bingley*] *to have been employ'd by One of the Miniſters, and received Money and Promiſes from Him*——*That this Miniſter declared a Prejudice, upon ſome private Account, to the* Biſhop *of* Rocheſter; *was reſolv'd to pull down the Pride of that haughty Prelate*, and *to ſqueeze Me*——*to that Purpoſe.* This is the *Accuſation*, blacker than Treaſon it ſelf. And though the *Good Man* is *heartily ſorry to ſay that there are ſome Circumſtances, which ſeem to give too great a Countenance to the Truth of it*; yet no One, I believe, will doubt but that his *Sorrow* was only becauſe He could bring none but invented or inſufficient *Circumſtances*, to ſupport an *Invented* Charge of the higheſt Nature. Here follow the *Circumſtances*. Mr. *Neynoe* might *well be ſuppoſed to have ſpoken in the Sincerity of his Heart, at this Time when* He *ſaw his Villainy detected; believed Himſelf to be in the greateſt Danger; and depended upon* Bingley, to whom He confeſs'd Himſelf, *to help Him out of his Misfortunes. Beſides, the very Cypher by which thoſe Letters were written, (and which He owned to have received from that Miniſter,) was actually caught upon the Perſon* [Bingley] *to whom He* [Neynoe] *gave it; and He confeſs'd That He put a* Paper *of* Directions *into One of my Drawers, by which—moſt of the treaſonable Letters were addreſs'd. And it has been proved that Thoſe Drawers were conſtantly open.*——It is then added, That ſince *He was the firſt that ſet the* Miniſtry *upon intercepting Letters which He ſaid were mine, it is very extraordinary that ſuch a material Part of his Evidence ſhould be omitted in his Examination; or, that the very firſt Letters ſo intercepted ſhould be Thoſe alledged againſt the* Biſhop *of* Rocheſter. —— *And* [now follows the moſt Demonſtrative Argument of all] *if the Originals of thoſe Three Letters were ſtopt,* I DON'T AT ALL DOUBT, *but They might be proved to be my Accuſer's* [Neynoe's] *own Hand-writing.* Theſe are the ſeveral Parts of the *Circumſtantial Evidence* of his *Charge* againſt a *Great Miniſter*. I have put it all together in one View, that it may appear in its whole Force.

But before I come particularly to conſider it, I will juſt take Notice of *Two* Things which Mr. *Kelly* adds upon this Subject. *One* is, His *Inference* at the *End* of this *Charge*; viz. *That a Fellow who was capable of vilifying one Perſon, may very well be judg'd capable of doing ſo to Another: And if his Veracity is not to hold good in One Caſe, there can be no Reaſon for allowing it in the Other.* My Obſervation is, That, very unhappily to Him, this *Inference*, which He deſigns for his own Advantage, ruins his own Purpoſe, and deſtroys the Force of *all his vile Suggeſtions* againſt that *Miniſter*. For this Matter ſtands thus. The *Charge* againſt Mr. *Kelly*, and his *Eminent Friend*, was never made to rely upon the *Veracity* or *Credibility* of *Neynoe*. But ſee the Management of too much Cunning. It was Mr. *Kelly*'s Intereſt to have it thought, *All* rely'd upon ſuch an Authority. Upon this, He *firſt* attempts to deſtroy *Neynoe*'s Veracity and Credibility

dibility, which ſimply conſider'd was on all Hands given up; and laborioufly to *prove* a Man *falſe*, who was on every Side *allow'd* to be ſo. As ſoon as He has deſtroy'd (as He thinks) the *Credibility* of this Man, He then brings to Life again that *Credibility* of the *Same* Man thus deſtroy'd, and makes uſe of it in the foulеſt Charge againſt a *Great Miniſter*. But with this remarkable Difference on each ſide, That *Neynoe's* Evidence uſed againſt Mr. *Kelly*, was uſed only as concurrent with other Proofs of the ſame Facts; and was directly written down from *Neynoe's* own Mouth; and, upon reading it twice over to Him, was ſolemnly and repeatedly acknowledged by Himſelf to be true, before ſeveral Lords of the *Council*: But that *Neynoe's* Evidence, as us'd by Mr. *Kelly* againſt the Government, is not direct Evidence from *Neynoe*, or written down from his Mouth, and atteſted to be own'd by Him; but is indeed *Hearſay* from *Another*, and no more than *this*, That *Bingley* ſays, He heard *Kelly* ſay ſome Things, which do not in themſelves immediately and directly import any Plot or Contrivance between *Neynoe* and a *Great Man*, againſt the *Biſhop*, through Mr. *Kelly*; but from which, by way of *Speculation* and *Deduction*, Mr. *Kelly* infers ſuch an infamous Concluſion. We ſhall preſently ſee what theſe *Points* truly are, and compare his *Concluſion* with them.

The *Other* Thing I deſign'd previouſly juſt to take Notice of, was the Account Mr. *Kelly* gives of *Neynoe's Attempt to eſcape*. It was, it ſeems, *the ſtrong Senſe He had of his own Guilt*; and its *proving fatal to Him*, was no leſs than *the Hand of God viſibly interpoſing in that Eminent Prelate's Favour, by taking this Perſon, deſign'd for his Deſtruction, out of the World*. I have been ſo uſed to ſee and hear the Name of God, and his Providence, proſtituted to the vileſt Ends of Humane Paſſion, that I am now little moved by the Application of ſuch *ſacred* Sounds, unleſs it be to be more upon my Guard againſt yielding to any Impreſſions from them, without other Proofs of *Probability*. As to this *Incident*, it is impoſſible not to obſerve, that the Turn here given to it by Mr. *Kelly*, is *Abſurd*; and that the ſetting the *Seal* of Providence to it, is *aſſuming Impiety*. The Turn is *abſurd*, in the Face of his own Evidence; from whence it appear'd that *Neynoe* attempted his Eſcape, not becauſe He was ſenſible of his own Guilt with regard to the *Biſhop*; but becauſe He was ſtill a determin'd *Jacobite*, and reſolv'd not to be an *Evidence* in the Affair. And it is a peculiar Mixture of *Impiety* and *Impudence*, to introduce the *Providence* of *God*, as taking Him away for ſuch an End; becauſe it had been more for the *Biſhop's* Service and Mr. *Kelly's*, if Providence had not taken Him out of the World, but had help'd Him in his *Eſcape*; as He was now determin'd not only not to be an *Evidence*, but to confound, as much as He could, Every Thing which He had pretended to let the *Adminiſtration* into; and had ſo deep a Senſe, according to Mr. *Kelly*, of *his former Guilt*. And this He might have had ſome Hopes of doing, with that great Dexterity He was Maſter of, if it had been his good Fortune to have eſcaped to *France*. For Mr. *Kelly* knows the Benefit and Eaſe of obtaining *Letters* and *Affidavits* from thence. However, One thing I am glad of, that this *Gentleman's* Zeal to intereſt Providence viſibly on the Part of the *Biſhop*, has made Him acknowledge that his *Old Friend* was thus *taken away, in his Attempt to make his Eſcape*; and this after his examining Witneſſes to that Fact:—— Whether from the Force of Truth, or the Apprehenſion that the *contrary Suppoſition* would lie heavieſt, on his own Party and his own Cauſe; I will not determine. Let us now return to the *Charge*.

Bingley teſtifies upon *Oath* what *Neynoe* is here ſaid to have confeſs'd to Him.—— This is the Chief *Witneſs* to ſupport ſuch a Charge. But this very *Bingley* was proved, and owned Himſelf, to have been convicted, whipt, pillory'd, and impriſon'd at *Dublin*, upon *Two Indictments*, for publiſhing a Treaſonable Book, and ſpeaking Treaſonable Words; and this, after having taken the *Oaths* to the Government: Which, tho' not indeed *Perjury* in a Cauſe before a *Court* of *Juſtice*, yet implies in it, effectually and truly, *Falſhood* and *Perjury*; and perhaps ſo circumſtanced, as to make Him a leſs credible Witneſs in the preſent Caſe, than if He had in a Common Trial proved Himſelf a *Perjured Witneſs*. For, at the ſame time that here is Evidence of his little Regard to an Oath, which alone makes his Teſtimony upon *Oath*, in itſelf, light and inſignificant; here is alſo *Evidence* of his *Zeal* for the *Pretender's Cauſe*, above the Senſe of the moſt ſacred Obligations; which renders his *Teſtimony* ſtill more light and inſignificant, when given for the Service of that very Cauſe, which firſt taught Him Falſhood and *Perjury*. And how little Senſe He had of any *Guilt* upon this Account, appear'd when, being ask'd at the *Bar*, (in the *Biſhop's Trial*,) Whether He had not taken the *Oaths* to the *Government*, at the Time of taking his Degree; He impudently cry'd out, *My Lords, You all know the Nature of taking the Oaths. There were ſeveral crowding to do it at once; and I am not ſure, whether I laid my Hand upon the Book, or not*: and the like, without Shame or Decency. I grant, that in the *Biſhop's Trial*, other *Witneſſes* were call'd, to relate what *Neynoe* had ſaid to the ſame Purpoſe, in Converſation with *Them*. When I meet Them *there*, I ſhall do Them Juſtice; and ſhew that their Teſtimony and their Story were leſs credible, if poſſible, than the *Others*. But, as *Bingley* is the *Witneſs* to whom Mr. *Kelly* appeals, and upon whom He relies, it will be now Time to ſee what his *Teſtimony* amounts to.

1. *Neynoe* told *Bingley* that He received *ſome* Money, and Promiſes of *more*, from *One of the Miniſters*. But here Mr. *Kelly* ſuppreſſes what *Bingley* teſtified, that *Neynoe* Himſelf told Him, that this Money, and theſe Promiſes, were

given Him, to encourage Him to discover what He knew, and to find out what He did not know; particularly, the *Persons* who were design'd by such and such *Fictitious Names* in the treasonable Correspondence. But that *Honourable Person* Himself, who is thus highly injured, did at the *Bar*, and upon his *Oath*, give so distinct and plain an Account of his Transaction with *Neynoe*, that it seem'd universally and fully to satisfy all who heard Him. *Neynoe* wrote Him a *Letter*, offering to discover Matters of great Importance to the *Government*. It had been Breach of Duty, in any *Minister*, not to receive or hear a *Person* making such an Offer, in so critical a Time. He did receive Him, and kept Him so strictly to his own *Offer*, that, after much trifling, *Neynoe* went so far as to tell Him several Matters, which convinced that *Minister* that He was privy to the *Conspiracy*, and knew a great deal more. For they were such Particulars as *Neynoe* could not come to the Knowledge of, but amongst *Those* engaged in it. Being so convinced, It was the *Duty* of that *Great Man* to support and encourage this *Person* to go on; and to give Him Money, if necessary, in Expectation of his making farther Discoveries. Accordingly, for this Purpose, a Sum of Money was given, not pretended to amount in the Whole to more than 350 *l.* and this, at several Times; and the Promise of more, whatever it was, was acknowledged on all Hands to have been in order to obtain the most important *Discovery* of the Persons concern'd under *Fictitious Names*. And what is there in all this, contrary to the Rules of the most *Honest Policy*? To go on.

2. *This Minister declar'd to* Neynoe (as *N.* told *Bingley*) *a Prejudice, upon some private Account, to the* Bishop *of* Rochester; *and that He was resolved to pull down the Pride of that haughty Prelate, and to squeeze* Mr. *Kelly to that Purpose*: and therefore, the *Three Treasonable Letters*, which are the only Points in question, were a Contrivance of *Neynoe's* to assist a *Minister* in this Plot against the *Bishop*. This must be the *Conclusion*, He would insinuate from hence. I will not here argue from the high *Improbability* of a *Minister* of *State* thus unnecessarily disclosing his Resentments against a *Prelate*, to a *Person* whom He had already found false, and acting a double Part; and who was so perfect a Stranger to Him. There is no need of such Arguments. *Facts* themselves will always be sufficient to furnish Confusion to such wicked Suggestions. The *Honourable* Person, so barbarously struck at, testified upon *Oath*, at the *Bar* of the *House* of *Lords*, that through his whole Life there never had happen'd the least *private* Matter between *Himself* and the *Bishop* of *Rochester*, which could create any Personal Prejudice in Him: and therefore, that He could not have said any such absurd thing. But, what is above all Contradiction, The *Three Letters*, which are here said to be thus forged, in order to furnish the Chief Charge both against Mr. *Kelly* and the *Bishop*, were in fact intercepted *about three Months* before that *Minister* had ever heard of such a Man as *Neynoe* in being; as We shall see more fully hereafter. Nay, there is an infallible Argument to be drawn from the Impossibility of the *Supposition*, that a *Minister* should encourage the Invention of a *Plot* against a *Prelate*; nay, help to contrive it Himself; and at the same time should say to the *Person* who was to assist in this Contrivance, that He would *squeeze* one Mr. *Kelly* to tell something, or testify something of this *Prelate*; which Mr. *K.* could not testify to any Purpose, nor so much as have any Knowledge of, if the Whole were only an *Invention* between that *Minister* and *Neynoe*. This is *Self-Contradictory* Nonsense. To speak of *squeezing* Mr. *Kelly*, supposes a Persuasion that Mr. *Kelly* knew something. And if this were all a *Contrivance between Two Persons*, it is impossible They should speak together of *Squeezing* a *Third Person*, who could not be thought by Them to be in a Real *Conspiracy*, whilst They knew there was none; and was not at all privy to their supposed *Wicked Design* of inventing One. If therefore, That Minister *did not say* any such Words to *Neynoe*; as I believe Every Man of Sense will think it evident *He could not*; there is an End of this *silly* Hearsay Argument. But if He did; and it could be proved that He had said these very Words to *Neynoe*, They are so far from implying either that *He Himself* had forged any one Circumstance of such a *Mock-Plot*, or that He had employ'd *Neynoe* to any such detestable Purpose; that They certainly imply the contrary, *viz.* That He at that Time knew the *Bishop* to be engaged in a *Real Plot*, and Mr. *Kelly* to be in the Secret with Him. Otherwise, He could not possibly propose to *Himself*, to *squeeze* the *Latter*, in order to come at the *Former*. Add to this, That *Bingley*, through his whole Evidence, never so much as insinuated that *Neynoe* had at all laid it to that *Minister's* Charge, that He ever once attempted to persuade Him to *forge*, to *invent*, or to *falsify*; but indeed, that He employ'd Him to quite another Purpose, *that* of discovering the *Truth*, and finding out the *Fictitious Names*; and prest him to nothing but to confess what He knew, and to be a *Legal Evidence* of what He should so confess. And this, all the World will allow, is a Part agreeable to the *Character* of a *Minister*, and to the Duty of a Lover of his Country.

After these Observations, it is needless to remark how insignificant it is, in Mr. *Kelly*, to argue that this *Confession* made to *Bingley* must be *sincere*, because it was made after *Neynoe* was taken at *Deal*; *at a Time when He saw his Villainy detected, and believ'd Himself in the greatest Danger, and wanted* Bingley's *Assistance to help Him out*—— For it appears that, take the *Confession* as Mr. *Kelly* Himself has partially and invidiously related it, and suppose it to be never so sincere, it amounts to no more, than that *Neynoe* own'd He had receiv'd Money from One of the *Ministers*, for a good and justifiable End;

and

and that That *Miniſter* was angry with the *Biſhop* of *Rocheſter*, and thought He had diſcover'd enough to come *at* Him, *through* Mr. *Kelly*. But ſee how inconſiſtent and inſufficient all ſuch *Inventions* as theſe are. For *Neynoe*'s Want of *Bingley*'s Aſſiſtance, join'd to his Knowledge of his Principles and Party-Zeal, is a *Proof* of the very contrary; and gives Ground to think that *Neynoe* would not be ſincere with his Companion; nor ſuffer Himſelf to tell Him any thing but what ſhould engage *Him* (whom He knew to be a *Jacobite*) to ſerve and aſſiſt Him at ſuch a Juncture. But, what is ſtill more abſolutely irreconcileable with Mr. *Kelly*'s own Deſign, He repreſents *Neynoe* as having receiv'd Money, in order to be a *Villain*, or a *Falſe Accuſer*; to help a *Great Man* to reach the Perſon of an *Eminent Prelate*; and calls *Neynoe*, the Perſon *deſigned for the Deſtruction of that Prelate*; making the *Whole* a *Plot* between *Neynoe* and that *Great Man*: and then, forgetting Himſelf, dates the Diſcovery of his *Villainy* from his Apprehenſion at *Deal*. Whereas, if there be any thing beſides *Wicked Invention* in theſe *Wicked Suggeſtions*; the *Miniſter*, who employ'd Him, knew the *Villainy* from the Beginning: nor could *Neynoe* apprehend Himſelf to be at all in Danger from that *Villainy*, which He is at the ſame time ſuppoſed to have enter'd into, by the Direction of that *Miniſter*, who is here abſurdly ſaid to have *diſcover'd* it, *long after* He muſt have known it. But who can wonder at this *Self-Contradiction*, when Mr. *Kelly* again forgets Himſelf ſo far, as to repreſent the ſame *Miniſter*, even after this Diſcovery of *Neynoe*'s Villainy, and after the *Death* of *Him* who was his only *Aſſiſtant*, as ſtill purſuing the ſame Deſign againſt the *Biſhop* and *Kelly*, tho' He knew it to be all an *Invention*; and tho' *Neynoe*, who had invented it, and who alone could ſupport it, was dead and gone. It is almoſt an Inſult upon the Common Senſe of Mankind, ſo much as to point out ſuch flagrant *Inconſiſtencies*, and *Self-contradictions*; much more, to inſiſt upon them.

The *Importance* of this *Enquiry*, and the *Wickedneſs* of this *Charge*, have carried Me already beyond bounds. Several *Circumſtances* of it remain ſtill to be conſider'd. I don't avoid them, but delay them to the next Opportunity, with an Aſſurance that They ſhall be proved to be mere *Impoſſibilities* in Fact; or mere *Inventions* of this *Conſpirator* and his *Great Maſter*, as a *Supplement* to their Part in the *Conſpiracy*, and Marks of their continued Zeal and *Virulence* againſt a Government, which They are reſolv'd to *ſhake* by the vileſt *Calumnies*, ſince They cannot prevail to *overturn* it by more open and direct Aſſaults.

BRITANNICUS.

PAPER III.

I Will now conſider the remaining Circumſtances which Mr. *Kelly* produces, as Evidences of that *Imagin'd Forgery* in *Others*, by which He would hope to cover the *Real* Treaſon of *Himſelf* and his *Great Friend*.

3. *The very Cypher* (ſays He) *by which the Letters* [*viz.* the *Three Letters* charged upon Mr. *Kelly*] *were written* (*and which He* [Neynoe] *own'd to have receiv'd from that Miniſter*) *was actually caught upon the Perſon* [Bingley] *to whom He* [Neynoe] *gave it*. From hence Mr. *Kelly* hoped to inſinuate this wicked *Concluſion*, That this very Cypher had been invented and agreed upon, by that *Miniſter* and Mr. *Neynoe*, to write thoſe Letters by, which were afterwards to be fixt upon Mr. *Kelly* and the *Biſhop*. But this Piece of *ſhameleſs* Invention is deſtroy'd, not only by its own Abſurdity, but by its Contradiction to the Truth of *Facts*, even as They ſtood in *Bingley*'s own Story; and much more, as They appear'd in the *Whole* Evidence. In the firſt Place, there was no *Cypher* taken upon *Bingley*, neither did *B.* pretend there was. The *Paper* taken upon *Bingley*, which He had received from *Neynoe*, was a *Catalogue* of *Fictitious Names*, acknowledg'd to be given Him by that *Miniſter*, for Him to find out the Perſons truly meant by all of them: over againſt *Some* of which, *Neynoe* had writ the *Names* of *ſome* Perſons, as ſignify'd by them. This agrees exactly with what *Bingley* Himſelf ſaid: *viz.* That *Neynoe* told Him, his Errand was, to find out the *True Names* ſignify'd by the *Fictitious Names* in that Paper. And this it ſelf is a Demonſtration, that Whoever gave Him this Liſt of *Fictitious Names*, did not give Him at the ſame time the *Names* of the *Perſons* ſuppoſed to be meant by Them; becauſe This was the Point, He Himſelf was employ'd to diſcover. This is the *Paper*, and This only, which was found upon *Bingley*, to whom *Neynoe* had given it. And the *Falſe Conjectures* written over againſt *Some* of theſe *Fictitious* Names by *Neynoe* Himſelf, being perfectly different from *Thoſe* that were always underſtood by the *Miniſters* to be meant by Them, is an additional Evidence, that This could not be any Agreement to contrive the *Correſpondence* in Queſtion under theſe *Names*; which are ſome of them repreſented by *Neynoe* to ſignify *Perſons*, whom thro' the whole *Correſpondence* They are not interpreted *once* to ſignify; and which thus interpreted, inſtead of explaining, abſolutely deſtroy the Senſe of all the Intercepted Letters. For inſtance, againſt Mrs. *Killigrew* is writ Pr. *Sobieski*; though Mrs. *K.* is deſcribed in the Letters, as in *England*, and having a *ſick Daughter*, *&c.* which Circumſtance pointed plainly to Mr. *D. Kelly*'s Family. Over againſt *Digby* was writ the *Pretender*, though that Name was well known to the *Miniſters* to mean General *Dillon*. What therefore, can any One think of the *Conſcience* of a *Man*, who can repreſent *This Paper* to the World, as the *Cypher by which the Letters* in queſtion *were writ*; and, merely out of Revenge on *Thoſe* who have detected his Treaſon, can invent ſuch a *Material Fact*, againſt the Tenour of *his own* Evidence, as well as of the *Contrary*? Mr. *Kelly* goes on.

4. *Neynoe*

4. *Neynoe* confeſs'd [*viz.* to *Bingley*] *that He put a Paper of Directions into one of my Drawers, by which moſt of the treaſonable Letters were addreſs'd. And it has been proved that thoſe Drawers were conſtantly open*——. This looks plain and poſitive. And yet, plain and poſitive as it appears, it is All nothing but *Downright Falſhood*, and Wilful Invention. The *Meſſengers* employ'd about this Affair, did *Both* give Evidence upon *Oath*, that This *very Paper* of *Directions* was taken, *not* in any of Mr. *Kelly*'s Drawers, but in his *Pocket*. Beſides, Two other Circumſtances bear Teſtimony againſt Mr. *Kelly* in this. The *Paper* was in *his own* Hand-writing: and *Neynoe* was not known to, or heard of by, any of the *Miniſters*, till *Nine Weeks* after that Paper was taken in Mr. *Kelly*'s Pocket. How baſe is it therefore, to inſinuate as if This *might probably* be left in one of his Drawers by *Neynoe*, from *his having been alone in his Room, the Night before he went to France:* when this very Paper of *Directions*, about which He is ſpeaking, was taken upon *Himſelf*, ſome Months *before* that Night. So that it muſt appear an excellent Argument in Mr. *Kelly*'s ingenious Mouth. *Neynoe* once left a Paper in one of my *Drawers:* therefore, a *Paper* of *Directions* for treaſonable Letters, taken in my *Pocket*, and writ in *my own Hand*, is that very *Paper* which *N.* writ and left in my *Drawer*, ſome Months *after* it was ſeiz'd upon my ſelf. But I muſt not here forget the *Evidence* call'd by Mr. *Kelly* Himſelf, the Servant-Maid of the Houſe, who, when ſhe was examin'd upon *Oath*, teſtify'd that *Neynoe* wrote ſomething in Mr. *Kelly*'s Room; that, whatever it was, He folded it up in the Shape of a Letter; and that *N.* was ſo far from making a Secret of it, (as He muſt have done, if it had been Part of the *Plot* againſt Mr. *Kelly*) that He Himſelf bid this Servant tell Mr. *K.* as ſoon as He ſhould come Home, that He had left a *Letter* for Him in One of his *Drawers:* which Circumſtance is abſolutely inconſiſtent with any *Villainous Deſign* againſt Mr. *Kelly*.

5. The Accuſation goes on thus—*Since* Neynoe *was the firſt that ſet the Miniſtry upon intercepting Letters, which He ſaid were mine, it is very extraordinary that ſuch a Material Part of his Evidence ſhould be omitted in his Examination; or, that the very firſt Letters ſo intercepted ſhould be Thoſe alledged againſt the* Biſhop *of* Rocheſter. But all this again is a vile, affected, wilful *Miſrepreſentation* of the *Fact*; framed only for carrying on the Inſinuation, that *Neynoe* was the Great Contriver of this *Plot* from the Beginning: and diſproved in a Moment, by only calling to Mind, what was teſtify'd upon *Oath* at the *Bar*, *viz.* That theſe *Three Letters* were *ſtop'd* and *copy'd* at the *Poſt-Office*, *three Months* before ever *Neynoe*'s Perſon, or Name, was known to any *One* of the *Miniſters*. They were *ſtopt* the *latter End* of *April*. Mr. *Kelly* was taken up the 19th of *May*. Mr. *Walpole* never ſaw nor heard of *Neynoe* till the 28th of *July*. And *Fact* it ſelf entirely correſponds with this. *Neynoe*'s Letter was produced and read, in which He makes his *firſt* Offers to be ſerviceable to the *Government*, and deſires an *Advertiſement* to be put into the next *Gazette*, which was done *July* 31. Upon which, He came to Mr. *Walpole*, by the Name, as I remember, of *Walton*. His *Examination* was not taken till the Middle of *September*, after his being brought up from *Deal*. Mr. *Kelly* (too groſly to be thought ſincere) wonders why no Notice ſhould be taken, in his Examination, of *Points*, which never were true in Fact, and never could be. *Neynoe* was ſo far from being the *firſt* who put the *Miniſters* upon ſtopping or intercepting Letters, that He was not known to *One* of Them till *three Months* after the firſt Letters were ſtopt. And that theſe were ſtopt, was owing entirely to the *Intelligencies* from abroad, long before *N.* was heard of. That the *firſt Letters* ſtopt were the *Letters* alledg'd againſt the *Biſhop* and Mr. *Kelly*, was becauſe *Theſe* were found at that Time at the *Poſt-Office*, going for *France*, when the *Miniſters firſt* thought it expedient to ſearch after ſuch Letters. But Mr. *Kelly* (who would willingly make a *Myſtery* of a *plain Fact*, by confounding *Times* and *Things*, againſt all Evidence,) wilfully forgets that *Neynoe* never *laid theſe three particular Letters* to his Charge; nay, as it appear'd, never knew that there were *Three ſuch Letters* intercepted. What He ſaid in his Examination was in general, That Mr. *Kelly* was *Secretary* to the *Biſhop* of *Rocheſter*, in the *Treaſonable Correſpondence* then going on; and the like. And therefore, He need not wonder that the Part of *Neynoe*'s Evidence about theſe *Three Letters* in particular, ſhould be omitted; when it is evident there never was, nor could be, any ſuch *Part* of his Evidence, as could relate to what He Himſelf knew nothing of, and was never ask'd about.

6. When all will not do, Mr. *Kelly* has Recourſe to Mere, Native, Genuine, Unbluſhing Aſſurance. *And* (ſays He) *if the Originals of thoſe Three Letters were ſtopt*, I DON'T AT ALL DOUBT, *but they might be prov'd to be my Accuſer's* [Neynoe's] *own Hand-writing*. This is, indeed, a *Maſter-ſtroke* of *Determin'd Calumny*. But were *Malice* and *Rage* are ſtrong, They ſeldom take Counſel of Wiſdom or Decency, or even *Probability*. For, otherwiſe, Could a Man of Mr. *Kelly*'s Senſe, poſſibly let ſuch a *Ridiculous Aſſertion* ſlip from him? Could he imagine *Neynoe* forging (as He ſuppoſes) a *Plot*;——arming Himſelf with all his *Cunning*, to manage it dexterouſly;——writing Letters on Purpoſe to be ſtop'd, and taken for Mr. *Kelly*'s;——and, at the ſame time, writing theſe Letters, not in Imitation of Mr. *Kelly*'s Hand, but in *his own* proper Hand?——that is, contriving a *Plot* againſt *Another* in ſuch Manner, as certainly to fall upon his own Head? Did ever Man, who was to fix *Letters* upon *Another*, contrive to write Them in *his own* Hand; and this ſo plainly, that the *Other* ſhould have *no Doubt* to prove Them to have been his Hand-writing? And if theſe *Original Letters* were *forged*, to be

fix'd

fix'd upon Mr. *Kelly*, how came the *Originals* to be allow'd to go forward? How came they to produce *Anſwers* from Abroad? And how came Mr. *Kelly* Himſelf to receive Any of thoſe *Anſwers*, as We ſhall ſee in the *Sequel* of the Evidence? I might ask too, If this had been ſo, Why did not *Neynoe, who had at laſt ſo deep a Senſe of his Guilt*, according to Mr. *Kelly*, and who confeſs'd ſeveral Things to *Bingley*; Why did not He own this greateſt Guilt, and give *B.* Commiſſion to ſay that theſe *Three Letters* particularly were forged by Himſelf? Since, if He were truly penitent for Injuries done to Mr. *Kelly*, He could make no Satisfaction without ſuch an expreſs Acknowledgment. But there was no Appearance of any *Tendency* towards any ſuch *Reparation* as This, throughout the Whole of *Bingley*'s Story. And this ſhews that *Neynoe* knew nothing of theſe *Three* particular *Letters*.

As I am now conſidering the *vile Imputations*, Mr. *Kelly*'s fruitful Invention has laid upon the *Adminiſtration*; I will, before I go to the *Poſitive* Evidence againſt Him, put together his *Other Complaints* in p. 12. which ſeem to point the ſame Way. He repreſents it as a ſingular Hardſhip to have *been held to* a conſiderable *Bail*, for a *Crime*, which would have juſtify'd a much ſeverer Conduct towards Him. And becauſe the Nature of ſuch Diſcoveries did not admit the *ſpecifying* what Particulars were then laid to his Charge; the Want of *This* is added to the Number of his *Grievances*. He laments *a long and cloſe Confinement, where the Expence bore no Proportion to his Circumſtances*. And yet, mean and helpleſs as He repreſents Them, when a Sum of Money of *above Thirty Pounds* came to Him from the *Government*, He ſo little needed it, that He makes it his Boaſt in p. 13. that He *made no uſe* of it, but gave it to the *Warders* appointed to attend Him. So well was He ſupply'd, either from *Himſelf*, or from *Other Hands*. But this is not all. It ſeems, it is now a great *Crime* in Thoſe in the *Adminiſtration*, to endeavour to produce ſufficient *Proofs* to the World of that *Treaſon* which lies already before Them, in a Light too plain to be doubted of. Every Attempt to examine Perſons to this Purpoſe, is declared to be *tampering* with them. Every Endeavour to perſuade Perſons to ſpeak the Truth, in order to ſave their Country, is conſtrued to be little leſs than *Subornation*. Nay, when Mr. *Kelly* is ſetting forth his *Grievances* in moving Complaints, He is ſo abſurd as to mention the *Examination* of *People, ſome of them of the meaneſt Rank*, —of *a Servant of his own*,—of *Friends of his own*,—of *a Perſon in* Newgate,—as *Aggravations* of his Misfortunes. Whereas, Who ſo proper to be examin'd, as *Acquaintance* and *Friends*, and Thoſe who are moſt likely to know what They are examin'd about? And how much greater a *Hardſhip*, how much juſter a Ground of *Complaint*, would it have been, if Mr. *Kelly* could have urged, That Perſons *not at all acquainted* with Him, *perfect Strangers*, ſuch as had *never ſeen or known Him*, had been treated with, to teſtify againſt Him what They could not know? Had *This* been the Caſe, Mr. *Kelly* would have rejoic'd to have turn'd the *Complaint* thus. But as it was not, I can eaſily conceive that his Guilt is Reaſon enough for his Anger, that *Thoſe Perſons were examin'd about Him, who were the only proper Perſons to ſatisfy any thing either of his Behaviour, or his Hand-writing*. That Any of his *Intimate Friends* were *impriſon'd for not ſwearing againſt Him*, as He without bluſhing affirms, is an *Infamous Imputation*, which the *ſame* unreſtrained Conſcience alone can pretend to juſtify, that firſt permitted Him to invent and utter it, without the leaſt Shadow or Pretence of Proof, or the leaſt Inſinuation to this Purpoſe, from any confined Perſons *Themſelves*. Mr. *Kelly* alone is *Bigot* enough to his Cauſe, to lay *This* to the *Charge* of the *Adminiſtration*, at the Expence of his own *Underſtanding* and *Honeſty*.

And *He* indeed, appears too much harden'd, to ſtop his Imputation here. For, after having weakly call'd theſe Proceedings (which are the Neceſſary and Common Proceedings of *All Adminiſtrations* in Caſes of *Conſpiracies*) by the Name of *Hardſhips hitherto unheard of in* England, He goes on to a new Inſtance of Infamy. *All which* (ſays He) *is of a Piece with an Infamous Offer made to Myſelf by One of the* Under-Secretaries *of* State, *who*——*came to Me with a Meſſage*, as He ſaid, *from One of his Superiors, to let Me know that I had now a very good Opportunity of ſerving Myſelf, and that He was ſent to offer Me my own Conditions. And when I declared Myſelf an entire Stranger to the Conſpiracy, and was ſorry to find that Noble Lord have ſo baſe an Opinion of Me, He ſeem'd to wonder that I ſhould neglect ſo good an Occaſion of ſerving Myſelf, eſpecially when I might have any thing I pleas'd to ask for.* You ſee that, in the midſt of all his *Rancour*, Mr. *Kelly*'s tender Conſcience did not permit Him *expreſly to aſſert* that He was ſollicited to be a *Falſe Witneſs*, or to invent an Accuſation, and teſtify a *Forged Crime*, againſt any Man. But the *Inſinuation* is plain; and would indeed be much ſtronger than it is, were it not that the Perſon here meant, Mr. *Delafaye*, came to the *Bar*, and upon *Oath* not only *contradicted*, but *confounded* the *Inventer* of it. That *Gentleman* declared, that He had been in publick Buſineſs during the Courſe of *Five* and *Twenty* Years; and hoped He might appeal to a Great Number of Perſons of the higheſt Rank, to whom He had the Honour to have his Conduct known, That He was neither ſo *Weak*, nor ſo *Wicked*, as to carry any ſuch Meſſage, as could be in any Senſe call'd *Baſe* and *Infamous*; nor was the *Noble Lord* pointed at, capable of ſending any ſuch: That the Day after Mr. *Kelly*'s firſt Examination, He went to Him, to ſee if He were in a better Diſpoſition than He had ſhew'd the Day before; and might then very probably ſay to Him, that the Way to obtain the favourable Opinion of the *Lords* of the *Council*, was to make a frank open honeſt Confeſſion of the *Truth*; but that as to any Offers to Mr. *Kelly*

of *his own Conditions*, or *Offers* of any ſort, He ſolemnly declared, He neither *directly* nor *indirectly* made any ſuch. Nor could any Words uſed by Him (*He ſaid*) be ſo underſtood, by any Man of Common Senſe, much leſs by a Man of Mr. *Kelly*'s Good Underſtanding. This Teſtimony join'd with the acknowledg'd Character of Mr. *Delafaye*, had ſuch a Viſible Effect, that I remember Mr. *Kelly* ſeem'd *ſtruck* and *ſtunn'd* with it. However, as He thought it neceſſary to ſay ſomething, He inadvertently in his *Confuſion* let fall an *Unguarded Expreſſion*, which help'd to ſhew that He had not been preſs'd to teſtify to *Falſhood*; but that He knew a good deal of *Truth*, which He would not tell. For, He alledged that He had written down what had paſs'd between Mr. *Delafaye* and *Himſelf*, immediately after their Converſation together; and that the *Paper* it ſelf, in which He had written it, was taken amongſt the *Biſhop* of *Rocheſter*'s Papers, as the *Biſhop's Secretary* had told Him: and to this *Paper* He appeal'd. Mr. *Delafaye* reply'd, that the *Papers* taken at the *Biſhop*'s were mark'd by the *Biſhop*'s *Secretary*, and tied up in his Preſence; and that there was no ſuch Paper amongſt them: and to *This* One of the *Secretaries* of *State* likewiſe teſtified. This ſhews that the *Paper* had been deſtroy'd before the *Biſhop*'s Houſe was ſearched. But Mr. *Kelly*'s Account of it too plainly proves, that there was a Correſpondence between Mr. *K.* and the *Biſhop*, as between Perſons concern'd in the ſame Cauſe; that Mr. *K.* thought it of Importance to that *Prelate*, to inform Him of Every thing that paſs'd in his *Examinations*, of which therefore He ſent Him Minutes; that Mr. *K.* was well acquainted with the *Biſhop's Secretary*, and had diſcours'd with Him about the *Papers* ſeiz'd at the *Biſhop*'s: And all this is a Proof, naturally and unwarily given by Mr. *Kelly* Himſelf, of that more than ordinary Correſpondence and Alliance with that *Prelate*, in this very Affair of the *Conſpiracy*, which He was endeavouring, if He could, to hide and palliate. For the *Biſhop* could not have had that *Paper* of *Kelly*'s Writing, but from *Kelly*. *Kelly* could not ſend it, but becauſe it was of Concern to the *Biſhop*, to know his *Firmneſs* to the Cauſe, and his obſtinate Silence. *This* could not be of Concern to the *Biſhop*, but becauſe the *Biſhop* was in ſuch ſort engaged in the ſame Cauſe, that it was in Mr. *Kelly*'s Power, by ſpeaking Truth, to hurt Him. And by the Way, This gives Light to the *Letter* D. 45. in the *Appendix* to the *Report* of the *H.* of *Commons*, written without doubt by Mr. *Kelly*, in which particular Mention is made of a *Paper*, as taken amongſt the *Biſhop's*, giving an Account of *Kelly*'s Examination before the *Council*; and expoſes the poor Artifice there mention'd, of the *Biſhop*'s endorſing it with his own Hand, *This came from an unknown Hand.*

I have now done with Mr. *Kelly*'s direct *Imputations* upon the *Adminiſtration*. I ſhall in my next proceed to his Account of his own Caſe, and his State of the Evidence againſt Himſelf: which ſhall be ſhewn to be as entirely *falſe*, as the *Other* has been prov'd *extravagantly Wicked*. The Senſe of which forces Me to ſay, before I quite leave Sight of the Subject, "That there "are no Enemies ſo terrible, or ſo deteſtable, "as Thoſe, whoſe *Religion*, whoſe *Piety*, whoſe "*Conſciences*, can permit and engage Them to "falſify, to invent, to propagate Every thing "that is *Infamous*, to the Ruin or Hurt of their "Country; but will not ſuffer Them to ſpeak "One *True Word*, or do One *Honeſt Action*, "for its Preſervation and Security. From "ſuch *Conſciences*, and from *Thoſe* that have "Them, *Good Lord deliver Us!*

BRITANNICUS.

PAPER IV.

I Come now to the *poſitive Evidence*, in Support of the *Charge* againſt Mr. *Kelly*: and to ſhew the *Artifice* He uſes in ſtating, repreſenting and evading it. The main *Charge* againſt *Him* was, that "He was the *Writer* of *Three* "Treaſonable Letters, ſuppoſed to be for the "*Pretender*, the *Earl of Mar*, and *General Dil-*"*lon*; and that He ſent Them to Mr. *Gordon* "at *Boulogne*, with Directions to be deliver'd "to one Mr. *Talbot*." The *Evidence* given of this, He ſtates p. 7, in this Manner. "*And for Proof of This, the Clerks of the Poſt-Office are produced, who ſwear, That thoſe Letters were (to the beſt of their Knowledge) written in the ſame Hand with an Original which was ſtopt as a Speci-men of it; which Original has been ſworn by Two Perſons to be my Writing, and conſequently, Thoſe Letters muſt be too.*" Againſt the *Former* of theſe, *viz.* the *Oaths* of the *Clerks* of the *Poſt-Office*, Mr. *Kelly* argues thus, p. 7. "*Theſe Letters* (viz. the *Three Treaſonable Letters*) *are dated the* 20th *of* April, *and the Specimen ſo ſtopt, the* 20th *of* Auguſt: *Juſt four Months after. And how it is poſſible for People* (*who receive ſuch a Number of Letters*) *to ſwear to a Likeneſs of Hand, at ſuch a Diſtance of Time; and what Weight ought to be laid upon this kind of Evidence,——muſt be ſubmitted.*" But Mr. *Kelly* Himſelf knows, and knew when he ſpoke it, that All this is falſe. The *Clerks* were ask'd ſeveral times, in his Hearing, Are You ſure that the *Three Letters* of *April* 20. were in the ſame *Hand* with *That* of *Aug.* 20? The Anſwer They gave was, *Yes*, as ſure as They could be about any Hand-writing in the World. It was then ask'd, How can You be ſure of this, at the Diſtance of *Four Months?* Could You pretend to carry in your Memories the exact Traces of any Hand *ſo long?* Their Anſwer was, *No*: nor would They pretend to ſay what they did, upon ſuch a Memory. But, They affirm'd, there was hardly a *Week*, from *April* 20. to *Aug.* 20. in which They did not ſee, and *copy*, One or more Letters in *this ſame* Hand: by which Means They came to know it ſo well, that They could, by ſeeing the *Superſcription* only, pick out the *Letters* of this *Hand-writing*, from the whole Lump of

Letters,

Letters, as They always did. There was *One* thing, indeed, very remarkable, and which will help to prove the *Hand-writing* to be Mr. *Kelly*'s; *viz.* that the *little Time* in this *Interval*, in which No Letters came to the *Poſt-Office* in *that* Hand, was the preciſe Time whilſt Mr. *Kelly* was in Cuſtody, before his being *Bail'd*, and was not ſuffer'd to write what He pleas'd; but that, as ſoon as He was *bail'd*, and could write freely, They came again, and continu'd ſo to do *Every Week*.

It being therefore, plain that the *Clerks* muſt have been very good Judges of a *Hand*, which came before Them, and was copy'd by Them, *Every Week for near Four Months*; and not ſeen only *twice* in that Space of Time, as Mr. *K.* and the *Biſhop* diſingenuouſly repreſented it, againſt repeated Evidence: And this very Diſtance of *Four Months* from the *firſt Letters* in this Hand, (ſo magnify'd by the *Biſhop* and Mr. *Kelly*) appearing from hence to be a *ſingular Advantage*, inſtead of a Detriment, to their Teſtimony; the next Point is, What Anſwer, Mr. *Kelly* makes to the *Evidence* given to prove that *Original* of *Aug.* 20. to be *His Hand-writing*. In p. 7. He goes on thus. "*And as to the Perſons who have ſworn to my Hand*; —*One of Them is a Meſſenger, who never ſaw any of my Writing, but the Superſcription of a few Letters.*—*Beſides, He was turn'd out of his Employment upon my Account: and a few Days after He gave this Evidence in the Houſe of Commons, I ſaw a Paragraph in the News-Papers, that He was reſtored to it again. And as to the Other,*—*He is a Servant who attended Me only about three Weeks, and was turn'd off for an Infamous Action*—*Beſides, He has confeſs'd, that He never ſaw Me write but as He went backwards and forwards in the Room, and at ſuch a diſtance as not to be able to diſtinguiſh One Character from another: And it has been proved by Two Witneſſes, (One of which was a particular Friend of his own) That He declar'd, He never knew any thing of my Hand, but was threaten'd by the Secretary of State into the Affidavit which has been printed to that Purpoſe in the* Appendix." Theſe are his *Objections* to the *Evidence* of *Hutchins*, and *Malone*: entirely again contrary to *Truth* and *Fact*. For *Hutchins* the *Meſſenger* declared at the Bar upon *Oath*, that He ſate cloſe by Mr. *Kelly*, while He wrote, at different times, *Ten* or *Twelve* Letters; *Three* of which He remember'd were to *Curte*; and that He *read* the whole Body, Every Word, of all thoſe Letters, before He deliver'd them; and that This He was ſtrictly enjoyn'd to do by One of the *Secretaries* of *State*, and did it exactly according to thoſe Orders. After this, How could This be *honeſtly* repreſented as the *Teſtimony* of a Perſon, *who never ſaw any of his Writing, but the Superſcription of a Few Letters!* As to his Inſinuation, from a *News-Paper*, in which perhaps He Himſelf might have *purpoſely* procured it to be inſerted, of *Hutchins*'s *being reſtored to his Place*; it is infamous, becauſe He knew it to be otherwiſe. For *Hutchins* Himſelf had upon *Oath* declar'd to Mr. *K*'s Face, that He was *not reſtored* to his *Place*; nay, the *Place* was known to be *then* filled up, (as it *now* remains,) with *Another Perſon*.

As to *Malone*, It is of no Importance whether He was *turn'd away* for [illegible] *great Familiarity* with a *Maid Servant*; or whether the *Pretence* only was taken from thence to diſmiſs *Them Both* for ſomething elſe, which it would not perhaps be very much for Mr. *Kelly*'s Honour to enquire into, at a Time when He ſeems rather willing to appear as a Man of *Religion* and *Conſcience*, than a *Man* well acquainted with the *Gallantries* of the *Town*. The ſame *Vice* is as *infamous* for the *Maſter*, as for the *Man*: and if *That* were ſufficient to deſtroy the Validity of *Evidence* in a *Court* of *Juſtice*; I am ſorry to ſay it, I fear Mr. *Kelly* Himſelf could not be admitted in any Cauſe as an *Evidence*; nay, that there could be no longer any *Juſtice* ſubſiſting, for want of *Evidence*: ſo common are ſome *Town-Vices* grown. The Points which are of Importance in an *Evidence*, are of another ſort; whether He ſpeaks conſiſtently, and probably; and whether He has given no known Proofs of his Diſregard to *Truth*, and Contempt of an *Oath*. And nothing of *This* appear'd in this Caſe. *Malone* depoſed, that He had frequently ſeen Mr. *Kelly* write the *Directions* of *Letters*; which Letters He [*Malone*] afterwards carry'd to the *Poſt-Office*; and view'd them, and read them, as He carry'd them. And that which made his *Evidence* particularly of Force with regard to the *Letters* in *Queſtion*, was, what He teſtified upon *Oath*, that ſeveral of Thoſe *Letters* which He had formerly carried to the *Poſt*, had the ſame *Direction* with that of the *Original Letter* of *Aug.* 20. which he had remark'd ſo much, as to repeat it by his *Memory*, *A Monſieur Monſieur Waters Banquier a Paris*. Theſe former Directions He remember'd; and ſwore that the *Hand* of this *Original Letter* ſhewn Him at the Bar, was that *ſame Hand* in which Thoſe *Directions* of *Letters* formerly deliver'd to Him by Mr. *Kelly*, and carry'd by Him to the *Poſt*, uſed to be written. What appear'd of *Terror* was, Not that Any *Great Man* had *terrified* Him; but that He Himſelf, appearing before ſuch Great Men, (as it was very natural) had been in ſome *Terror* and *Confuſion*. He utterly diſown'd, upon *Oath*, any *Threatning*, or any *Promiſe*, or any thing like them; and utterly deny'd that He had ſaid any thing to Any One, of his *not knowing* Mr. *Kelly*'s *Hand*; but appear'd very candid, as well as very conſiſtent with Himſelf.

Indeed, *Something* at the ſame time appear'd, not very much for the Honour of Mr. *Kelly*, or of his Friends; that One *Fitzgerald* had been tampering with this poor young Man; that He had made Him *drunk*, in order to pump ſomething out of Him; and had, when He had got Him into that *Condition*, writ down from his Mouth ſome Heads, or *Memorandums*, relating to Mr. *Kelly*, and to *Malone*'s *Examination*

nation, and had prevail'd with *Malone* to ſign this Paper. *Malone* remember'd ſo much, as to own this: and *Fitzgerald* Himſelf own'd it; and declar'd, that He did it out of *Friendſhip* to *Malone*, in order to mark down ſome Heads to help *Malone*'s Memory, that He might be the more ſure of what He ſhould go on to ſay upon that *Subject*. And now appear'd a very ſcandalous Scene. It was ask'd, Who took and kept that *Paper*, ſo ſign'd? It was anſwer'd and own'd, that *Fitzgerald* took it. He was then ask'd, Why he did not produce it? *What* was become of it? He ſaid, He did not know,—He could not find it, —— He had loſt it,—and the like. He was then preſs'd, Since You ſwear Yourſelf, that You wrote down all this only and ſolely to refreſh *Malone*'s Memory, to what Purpoſe did You get Him to *ſign* it? And above all, How came You to *take away* with *You* a *Paper*, which could not be of uſe to *Malone*'s Memory, but by being *left* with *Himſelf*? No Anſwer could be framed to theſe *Queſtions*, but what made the Appearance worſe. And all that was evident from this *Witneſs*, (call'd by Mr. *Kelly* Himſelf,) was, That there had been an *Infamous Juggle* to make a poor Fellow drunk, in order to make Him ſign ſomething for Mr. *Kelly*'s Advantage; and that, even in *that* Condition, They could get *Nothing* out of Him, which it was thought for Mr. *Kelly*'s Intereſt to produce, or ſo much as to preſerve in being. *All this* did ſtrongly, in the *Opinion* of Thoſe who heard it, corroborate, inſtead of weakening, the Truth of *Malone*'s Evidence.

Mr. *Kelly* appeals likewiſe in p. 7. to ſome of the *Letters* referr'd to by *Hutchins*, which were produc'd at the *Bar*, and might be ſeen, as He ſays, *to bear no Reſemblance* to that Original of *Aug.* 20. and adds, p. 8. *I have brought ſeveral Perſons of Credit and Undoubted Characters, who have all teſtified, That the Hand——is not mine, nor any thing like it.* The *State* of his *Evidence* was this. In the *Houſe* of *Commons* He call'd *Dennis Kelly* and *John Macnamara*. The *Firſt* denied the *Letter* of the 20th of *Aug.* to be Mr. *Kelly*'s *Hand-writing*; and ſo He did *All other* Papers that were ſhew'd Him, except the *Letters* to Lord *Townſhend* and Mr. *Delafaye*, which the *Priſoner* Himſelf was very willing ſhould be own'd. The *Second*, not being ſo well prepar'd, denied *Them All* to be his Hand-writing, as well *Thoſe* which were dangerous to Mr. *Kelly* to own, as Thoſe which Mr. *Kelly* Himſelf was deſirous ſhould be acknowledg'd as His own Hand-writing. But, (what was very remarkable) Mrs. *Barnes*, call'd by Himſelf for another Purpoſe, and having *All* the *Letters* ſhewn to Her, own'd Them ALL to be his *Hand-writing*. When he was to produce his *Evidence* for the ſame End, before the *Houſe* of *Lords*, inſtead of calling *Macnamara*, who had made ſo hurtful a Blunder as to *diſown All* the *Papers* in a Lump, He added to *Dennis Kelly*, one *Maurice Brown*. And their *Evidence* at the *Bar* of that *Houſe* ſtood thus. The *Former* own'd, (as before,) the *Letters* to Lord *T.* and Mr. *D.* to be his Hand-writing: *Denied* that of *Aug.* 20. to be *at all like* his Hand; and own'd a *Paper* (taken at Mrs. *Barnes*'s) containing *Articles* of *Marriage* between Mr. *Kelly* and *Her* to be *ſomewhat like* his Hand; but *ſo little*, that He ſhould judge it *not to be* his Hand. But who cannot ſee that a *Paper* upon *that* Subject, taken at *that* Place, and *like* Mr. *Kelly*'s Hand, could be *No One*'s Hand but *his own*? And who cannot ſee, that this Expert Witneſs could have no Reaſon for denying *This Paper* to be *His Hand*, but becauſe it was ſo manifeſtly the *ſame* with *that Letter* of *Aug.* 20. upon which the *Priſoner*'s Fate was to depend? *Maurice Brown*, when He came to give *his* Evidence, was very different from the *other*. For He own'd *That* to Lord *Townſhend*, and denied *That* to Mr. *Delafaye*, tho' both manifeſtly the ſame Hand; and Both acknowledg'd to be *His own*, by the *Priſoner* himſelf. He acknowledg'd the *Marriage-Articles* to be Mr. *Kelly*'s *Hand*: But *denied* the Letter of *Aug.* 20 to be *at all like it*; tho' ſo evidently the *very ſame Character* with thoſe *Articles*, that *Dennis Kelly* knew better than to own the *Paper* of *Articles*, becauſe He foreſaw *That this* would be in effect to own the *Letter* of *Aug.* 20. With this *Variety* and *Uncertainty* did his own *Evidences* treat this Affair; agreeing in nothing, but in a determin'd *Affirmation* that the *Letter* of *Aug.* 20. which They knew to be a Criminal Letter, was *not* his Hand-writing; but confounding it again by their oppoſite Teſtimonies as to *other* Papers. And when They were ask'd, in *what* Mr. *K*'s Hand-writing differ'd from *that Original* of *Aug.* 20. They could name no Particular, but that He generally wrote a *ſmaller Hand*. But this makes no material Difference, as to the Form and Duct of the *Letters* in any *Hand-writing*. Nor did it in this: as appear'd plainly to Many, who examin'd the *Letters* to which Mr. *K.* here appeals, as to his *own Writing*; and were convinc'd by the *Hand-writing*, tho' of a *ſmaller Size*, that the ſame Perſon who wrote *Theſe*, certainly wrote *That* of *Aug.* 20.

Mr. *Kelly*'s pretended Attempt to prove that He did not write Theſe *Three Letters* from the *Biſhop* of *Rocheſter*'s Mouth, or at *Bromley*, where the *Biſhop* was at the Time of their *Date*, was nothing but an *Attempt* to foreſtall the *Trial* of that *Prelate*: and was ſet aſide by his *Judges*, as what was no Part of the Charge againſt Mr. *Kelly*, nor of any Concern to Him to enter into: becauſe, if He could have demonſtrated This never ſo plainly, it could not at all have clear'd *Himſelf*, or prov'd that theſe *Three Letters* were not his *Hand-writing*, written by *Him* for *ſome Other* Perſon, at *ſome other* Place. Only *One* thing muſt not be forgot, That, in this *Attempt* of his *Zeal* to ſerve his *Great Friend*, Mr. *K.* has ſhewn a ſhameleſs Diſregard to Truth, in affirming p. 8. that it was *proved*, that He was in *London* ALL *that Time*, viz. from *Apr.* 12. to *May* 5. as it is expreſs'd in the foregoing *Paragraph*. For what Mrs. *Kilburne* and her Ser-

vant

vant depoſed, was that Mr. *K.* came to lodge at her Houſe, the *latter End* of *April*; that They did not remember He *lay abroad* any Night; but that He *generally* dined abroad. And how this *Teſtimony* about the *latter End* of *April*, comprehended All the Time from the *Twelfth Day*; or how their ſaying, He *did not lie abroad* any Night after He came thither, at all proved that He might not have been at *Bromley*, and back again, any one of thoſe Days in *April*, in which he lodg'd there; I leave to Mr. *K's Logick* to make out; and to his *Conſcience* to juſtify ſuch an *Affirmation*, even againſt the *Evidence* to which He appeals. Nay, what is more convincing againſt Mr. *Kelly*, He Himſelf own'd to the *Committee* of the *Houſe* of *Commons*, that He went out of Town the *Thurſday* Sev'night after his Return from *France*, i. e. the 19th of *April*. He ſaid it was to *Chelſea*; and for this He appeal'd to *One* there, who being examin'd, denied that ſhe *ever* knew or ſaw Him. So *forgetful* and *ſelf-contradictory* is *Guilt*, in its own Nature, as to make even Men of Parts confound their *own* Cauſe by their own *Evidence!* And who, but One in the Confuſion of *Guilt*, could affirm to the World that He had been proved to be ALL that Time in *London*, in *one* Part of which He had Himſelf declar'd that He was out of *London*?

After this, in p. 8. Mr. *Kelly* urges an *Affidavit* from Mr. *Gordon*, affirming *that He never receiv'd any ſuch Letters* (as the *Three* now in Queſtion) *from Mr.* K. *nor ever had any Correſpondence, or even Acquaintance, with Him.* But He wiſely hides from the *Reader*, That no *Manner* of *Proof* was brought that This was the *Affidavit* of that Mr. *Gordon*, to whom theſe *Letters* were ſuppoſed to be ſent; that there was not ſo much as a *Witneſs* to his *Hand*, which might eaſily have been procured amongſt the *Merchants* at *Boulogne*, if it had not been a Forgery: And what puts all beyond doubt, He conceals from the World, That a *Living Witneſs* appear'd, and teſtified upon Oath, That being at *Boulogne* at the Time when the *Report* of the *H.* of *Commons* came firſt thither, *Alexander Gordon* the *Son*, upon Occaſion of that *Report*, own'd to Him that Mr. *Johnſon* (*Kelly*) had been at *Boulogne*, and ſent for Him [*Gordon*] to a Tavern; that *Talbot* had likewiſe been there, and at his Houſe; that He did receive a *Letter* from Mr. *Johnſon* [*Kelly*] with a *Packet* enclos'd, as mention'd in the *printed Report*, and deliver'd it to the *Gentleman* as He was directed. There was indeed Evidence given by a *Shoemaker*, (as Mr. *K.* ſays,) that Mr. *Talbot* was in *London* the Day theſe Letters are ſuppoſed to be deliver'd to Mr. *Talbot* at *Boulogne*. But not, that *This* was the ſame Perſon with *Him* to whom the Letters were to be deliver'd. On the contrary, there was *Evidence* read from Mr. *Crawford* and his *Secretary* at *Paris*, that They found the Name of One *Talbot* enter'd in the Man's Books who keeps the *Bagnio* at *Paris*, as coming thither to lodge on *April* 30. that is, *May* 11. N. S. which agrees exactly with the Letters from *Dillon* and his *Secretary* to Mr. *Kelly*; and with *Gordon's* own Letter, in which He ſays, that the *Tall Black Gentleman* ſet out for *Paris*, *Apr.* 27. O. S. which by Miſtake is printed *Apr.* 30. in the *Report*. And as to Mr. *Kelly's* Argument from the Improbability that He ſhould ſend theſe Letters by the *Common Poſt*; or not rather to *Paris* directly, than by Way of *Boulogne*; it may be accounted for from hence, that theſe *Letters* were to ſerve as *Credentials* to introduce Mr. *Talbot* into Confidence at *Paris*; and that Mr. *Talbot* was then at *Boulogne*, and might receive Them there from the Hands of Faithful Friends; and likewiſe, that being directed to *Boulogne*, and not to *Paris*, They might be thought leſs liable to Suſpicion at the *Poſt-Office*.

This is the Whole of what relates to the *Charge* of the *Three Treaſonable Letters* written, and ſent abroad by Mr. *Kelly*. The Nature of my Deſign makes it neceſſary to be thus particular: And I had rather appear tedious to *Some*, than have it ſaid by *Others*, that any *Material Points* were deſignedly overlook'd, becauſe They could not be anſwer'd. And I hope, No honeſt *Reader*, tho' He ſhould be a little tired Himſelf, will grudge Me the Satisfaction (accompanied with a good deal of Pains) of tracing the *Conſpirators* thro' *Every Winding*, and *Turning* of their *Art*; and of ſhewing their *Manner* of *Defence* to be in Every Part of it as *Infamous*, as their *Conſpiracy* it ſelf was *Wicked* and *Deteſtable*.

BRITANNICUS.

PAPER V.

I come now to another *Article*, which made a Part of the *Direct Charge* againſt Mr. *Kelly*, and was expreſly urged againſt Him, as a Ground of paſſing the *Bill*; and was taken, as He expreſſes it, p. 10. from *A Number of* Intercepted Letters *ſuppoſed to be* [*written to, and*] *receiv'd from the late Earl of* Mar, *General* Dillon, *and other Diſaffected Perſons abroad.* In Support of this *Charge*, *Evidence* was produced to prove that Mr. *Kelly* did take up, and order to be taken up for Him, treaſonable *Letters* from aboard, with ſuch *Directions* as He Himſelf had appointed, and under ſuch Names as were found in a *Liſt* taken in his Cuſtody. Mr. *Kelly* begins his Anſwer to This, with objecting againſt One of the principal Evidence, in the following Manner; ſuch a Manner, indeed, as is enough to ruin his whole Attempt to defend Himſelf.—"*For Proof of this*, (ſays He) *a* Frenchman *has been produced, who ſwears that He once ſaw Me take up a Letter at* Burton's Coffee-houſe, *by the Name of* Baker, *which Name it is ſaid ſome of the Treaſonable Letters were addreſs'd by, and was in a Paper of* Directions *found in my Lodgings.* And He adds——*How that Paper came there, has been already prov'd.*" This is his firſt *Refuge*. The Name of *Baker* was indeed a *Name* by which treaſonable Letters were order'd to come. This Name was found in a *Paper* of

Directions. But He argues, This *Paper* was found in his *Lodgings*, and had been wickedly put there, for that very Purpoſe, by *Neynoe*; for this was what He had before pretended to urge. I muſt not tediouſly repeat what I have already ſaid: but I am forced to refer the *Reader* to the Truth of the *Matter* of *Fact* mention'd ſome time ago, and proved beyond all Contradiction; *viz.* that This *Paper* of *Directions* was taken, NOT in his *Lodgings*, or in his *Drawer*, as He goes on *falſly* to repreſent it: but in his POCKET; and taken there many Weeks before *Neynoe* was heard of by Any of the *Miniſters*. So that This is not a *Mere Evaſion*; but an *Evaſion* accompany'd with *Wilful Falſhood*, and *Deliberate Miſrepreſentation*.

His next *Argument* is againſt the *Credibility* of the *Perſon*. "*And as to the Perſon who has ſworn to this Particular, I muſt obſerve, that when He gave his Evidence to the* Houſe *of* Commons, *He did not know Me, tho' He ſpoke to Me, and look'd ſeveral times earneſtly at Me——And He would ſtill have probably continued in his Ignorance, if ſome private Hints (as I have been told) were not given Him.*"— This ſounds like ſomething; but when all the *Circumſtances* of this *Perſon*'s Evidence are known, it will appear no great Sign, either of Mr. *Kelly*'s Underſtanding or *Probity*, to have mention'd it. When this *Objection* was urg'd to the Man Himſelf, at the *Bar* of the *Houſe* of *Lords*, He proteſted, upon his *Oath*, that the *Reaſon* of his not anſwering immediately in the *H.* of *Commons*, was becauſe when He firſt came in, Mr. *K.* ſtood in ſuch a Poſture, that He could not ſee his *Face* plainly; that He *look'd round* about Him, in order to be certain of the Man, before he gave his Teſtimony; and that as ſoon as ever his Eyes had a plain Sight of Mr. *Kelly*, He challeng'd Him immediately and poſitively. The *Manner* itſelf of doing this, ſhew'd his whole Behaviour to be natural: and this very Circumſtance of his not giving his Evidence till He was ſure He ſaw the Perſon whom He knew to be Mr. *Kelly*, is ſo far from being to the *Diſadvantage*, that it is itſelf very much to the *Advantage*, of his Teſtimony. Every *One* will be confirm'd in this Opinion, who knows that Mr. *Collet* had ſeen Mr. *Kelly* very frequently, and muſt have known his Perſon, as well as He could know any One; and therefore, that the Force of This Evidence does not depend merely upon Mr. *Collet's* Behaviour at the *Bar* of either *Houſe*; but upon many *Circumſtances*, which ſhew that He could not (morally ſpeaking) be miſtaken in his Man, whenever He ſhould have a plain Sight of Him. He ſwore, that He waited at *Burton's Coffeehouſe*, not accidentally, but ſent *on purpoſe*, to watch and take notice, Who ſhould come thither, and take up a Letter directed for Mr. *Baker*; that it was his Buſineſs and Intent to take particular Notice of this *Perſon*, whoever He ſhould be: That there was at the Coffeehouſe a *Letter* ſo directed; that a *well-looked Gentleman* came and took that *Letter*; that He view'd Him very carefully; that He ſaw Him open the *Letter*, and read it, and put it up in his *Pocket*; that He then follow'd Him at a Diſtance, and watch'd Him, till He went into Mrs. *Barnes*'s Houſe in *Pallmall*, and from thence, (if I remember,) to his own Lodgings: That He after this ſaw and remark'd Him ſeveral times in the *Street*; and being ſure of the Perſon, and of his Lodging, gave this Account to his Maſter who employ'd Him; and *He* to the *Secretary* of *State*. Mr. *Salt*, whoſe Servant *Collet* was, declar'd upon *Oath*, that *Collet* ſhew'd Him Mr. *Kelly* in the Streets, no leſs than *five* or *ſix times*, as the *Perſon* who took up that *Letter*, directed for *Baker*, at *Burton's Coffeehouſe*. It appear'd likewiſe, upon *Oath*, that *Collet* was the Perſon, who ſhew'd Him to the *Meſſengers* when He was taken up; as that ſame Man, whom He was employ'd to view and watch at that *Coffeehouſe*. And after all this repeated Proof of his knowing Mr. *Kelly* perfectly well, is it not exceedingly trifling for that *Gentleman* to frame an Argument from a *Circumſtance* of *Collet's* not anſwering before He ſaw Him plainly in the *Houſe* of *Commons*; when here is a Concurrence of Proofs that *This* could not ariſe from his *not knowing* Him, but from his Confuſion; and his Reſolution not to ſpeak, till He ſaw the Perſon plainly, whom He ſo well knew?

Mr. *Kelly* goes on thus, p. 10. "*Beſides, the* "*People of the* Coffee-houſe *have teſtified the con-*" *trary; and that no ſuch Letter ever came to their* "*Houſe.*" This again is inexcuſable. For thoſe of *Burton's Coffeehouſe* teſtified no ſuch thing: nor could their *Teſtimony* be of any Force, if They had. All they could ſay was, That They did not *remember* the particular Letter in queſtion: not, *that They were ſure, that there was no ſuch*; which it was not poſſible for Them to be. And no great wonder, (even ſuppoſing Them to be ſincere, which is not certain) that They, who take in ſuch a Number of Letters, with a vaſt Variety of Names, ſhould not recollect one particular Letter, ſo taken in by Them. Neither is This any ſort of *Contradiction*, much leſs a ſufficient Counterballance to the *Poſitive Oath* of a Perſon who ſaw it, and was employ'd to take particular Notice of it.

Mr. *Kelly* then ſoars higher, and arraigns the *Council* of falſifying his *Examination*, (printed in the *Report* E. 1.) in which it is ſaid, *that He confeſs'd to have taken up ſuch a Letter.* He appeals to my *Lord Chancellor*, whether He did not often deny it at that Time; and, as if this were not Indignity enough, He adds, that *This is not the only Particular that is falſly ſet down in that* Examination. Whether the *Committee* of *Council*, or Mr. *Kelly*, be the more to be depended on, muſt be left to the Judgment of the World: taking into the *Account* that my *Lord Chancellor*, upon his *Appeal* to Him, immediately ſtood up and declared, He remember'd no ſuch *Denial*, on the Part of Mr. *Kelly*. But, to ſhew how *careleſly*, or rather *deſignedly* falſe, this *Gentleman* could permit Himſelf to be; He has here greatly

abuſed

abuſed the World. For He has attacked his *printed Examination*, and fix'd the Charge of *Falſification* upon it; under the Notion of its being his *Examination* before the *Committee* of *Council*. Whereas, his *Examinations* before that *Committee* was not taken in Writing. And the *Examination* printed, is a *former Examination* of Him before the *Two Secretaries* of *State* and the *Chancellor* of the *Exchequer*, in which He was not ſo well prepared to deny *ſome Circumſtances*, of which at that Time He had not ſo well conſidered the *Conſequences*. And at this *Examination*, which is the *printed* One, my *Lord Chancellor* was *not* preſent. Such a *Careleſs Unaccuracy* would little become Him. But this ſeems to be ſomething much worſe; and indeed, no leſs than One of the groſſeſt *Prevarications* imaginable, in a *Point* which touches the *Honour* of ſome of the Higheſt Perſons in the *Kingdom*. For under the Cover of a confuſed Way of ſpeaking, and with the Hope that his *Readers* will not ſee through it, He charges the particular *printed Examination* with groſs *Falſification*, expreſly as his *Examination* before the *Committee* of *Council*, at which my *Lord Chancellor* was preſent: Whereas, that *printed Examination* being *Another* and a *Former Examination*, He has this *Evaſion* in reſerve for this ſhameleſs Charge, That what He ſays of *Falſification* may be *true*, ſuppoſing the *printed Examination* be taken for That before the *Council*; and that He does not here once charge it with being *falſified*, ſuppoſing it to be his *Former Examination*; as He could not but know it to be. Here is another *Scene* of *Low Prevarication*, beneath a *Man* of *Common Senſe*, or *Common Sincerity*; to *appear* to the World to talk of *One* thing, when He knows within Himſelf, He is *truly* talking of *Another*.

But the *finiſhing Stroke* is yet behind; —— "*And I do* SOLEMNLY *affirm to your* Lordſhips, *That I never did receive any ſuch Letter*, (as that directed to *Baker* at *Burton's Coffee-houſe*,) *nor ever* SAW *that* Paper *of* Directions, *till it was printed in the* Report." What can the greateſt *Charity* think of ſuch a Behaviour? For thus ſtand theſe *Two* Points. A Perſon ſwears poſitively, He ſaw Mr. *Kelly* take up that *Letter*. He watch'd Him, He follow'd Him, He frequently had ſight of him. He ſhew'd the ſame Mr. *K.* ſeveral times afterwards to another Perſon; and to the *Meſſengers*, who took Him up. Mr. *Kelly*, in Oppoſition to This, wipes his Lips, and *ſolemnly* affirms *That He never receiv'd any ſuch Letter*: and, if I may gueſs from other Inſtances of Deceit, He thinks He has Refuge enough from the Guilt of a *ſolemn Lie*, in the low Artifice of making a Difference within Himſelf, between RECEIVING a *Letter* from the *Poſt*; and CALLING for it at the *Houſe* where it was *receiv'd*. Again, A *Paper* of *Directions*, agreeing with the *Direction* of *that Letter* and of *Others*, is *ſworn* by *Two* Perſons to have been taken in *his Pocket*. He, *good Man*, never Once regards this *Circumſtance* of its being taking in his *Pocket*; but, after having ſeveral Times with wilful Falſhood talk'd of it as deſignedly *put*, and *taken*, ſomewhere elſe, He adds his *ſolemn* Aſſeveration, *That He never ſaw this Paper, till it was printed in the* Report. —— Let Him, after *this*, be as *ſolemn* as He pleaſes, and *deny* what He pleaſes, ——It will all have equal Weight with Me, from *One* who has here publickly recorded againſt Himſelf a *ſolemn Aſſeveration*, which carries *Impiety* along with its *Incredibility*.

Mr. *Kelly* goes on to obſerve, that there is *One pretty remarkable Circumſtance of this Correſpondence*, (laid to his Charge) *That, as it began with* Neynoe's *Information, it ended with his being taken up. For immediately after, a new Correſpondence is pretended to be diſcover'd, and——it has been ſuggeſted* (ſays Mr. *K.*) *that I ſent Cyphers by Sir* H. G. *to* France, *and had Letters directed by them to* Sturgeſs's *and* Slaughter's Coffeehouſes. This *Circumſtance* is unluckily founded upon the *Old Wilful Miſtake*, That this Correſpondence *began* with an *Information*, which *Information* was given about Three Months after the Beginning of the *Correſpondence*. In Anſwer to this Part of the *Charge*, about *Letters* directed to thoſe *Coffeehouſes*, He ſays, *The People of thoſe Coffeehouſes have all ſworn that I never order'd any Letters of that kind to be taken in, or received One, either by my own or any other Name, from Them.* And the ſame He ſays of *Other Coffeehouſes*, in p. 11. Which may be thus far true, that after He had found the *Watch* ſet for Him at *Burton's Coffeehouſe*, He did not think it ſafe to go on in that Way of taking up *Letters* Himſelf; but He got One Mr. *Andrews*, and *Others*, to take Them up for Him. Of this Mr. *Kelly* takes not the leaſt Notice; but very dextrouſly and wiſely paſſes it over in *Silence*, becauſe the *Evidence* was too ſtrong to be play'd with. Mr. *Andrews* came to the *Bar*, and teſtified upon Oath, that Mr. *Kelly* deſired Him to call for *Letters* directed to Mr. *Andrews*, to be left at the *Dog* and *Duck* in St. *James's-Street*; and to bring them to Him: which agrees exactly with ſome of the *Intercepted Letters*, ordering the *Direction* to be in that very manner. Accordingly, He ſwore that *Letters* did come, which He call'd for, and paid Poſtage for, as for foreign *Letters*; and which He gave unopened to Mr. *Kelly*, and for which Mr. *Kelly* always paid Him: That Two of theſe *Letters* had been delay'd a good while by a Miſtake of the *Street* upon the *Superſcription*; but that They were brought at laſt to this ſame *Ale-houſe*, and there received by Mr. *Andrews*, and from Him by Mr. *Kelly*. All this and more is ſilently paſs'd over, as if nothing had been ſaid of it: and, inſtead of anſwering to ſuch poſitive Evidence of a *Man*, whom He did order to receive for Him ſuch *Letters*, according to his *new Directions*; He flies off to other Points of *Fact*, in which He was not ſo weak: but which are nothing to the Purpoſe. *Nay*, (ſays He, ſpeaking of the People of the *Two Coffee-houſes* named,) *One of Them has ſworn that no ſuch Letters ever came to his Houſe at all; and the Other*

ſays

ſays, That a Meſſenger from the Secretary's Office was the only Perſon that ever call'd at his Houſe for Thoſe directed to it. Theſe Two things are true, but do n't at all help his Defence, or ſhew his Innocence. *No ſuch Letters* did come to *One* of thoſe *Houſes*; but *Letters* did come to the *Poſt-Office*, directed to *that Houſe*. They were ſtopt at the *Office*, and not ſuffer'd to go on, becauſe They contain'd the *Pretender's Declarations*. And a *Meſſenger* was ſent to the *Other* Houſe, for *Letters* directed to it; becauſe Mr. *Kelly* was then in the *Tower*; and amongſt the *Directions* found in his *Pocket-Book*, was *One* to that Coffee-houſe: which gives a very good Account of the *Secretary's ſending* thither by Authority for what *Letters* could be met with. What follows about Mr. *Caryl's Depoſition*, had no relation to Mr. *Kelly's* Caſe, as it ſtood before the *Parliament*; being never urged againſt Him. However, it is evident that Mr. *Caryl* was not a *Willing*, but a very *Unwilling Witneſs*; and ſpoke what He did merely from the Senſe of his having taken an *Oath* to ſpeak *Truth*, and nothing but *Truth*. Neither could Mr. *Kelly* imagine Mr. *Caryl* to be in a Confederacy againſt Him.

I am now come to Mr. *Kelly's* concluding Argument, in Anſwer to the *Charge* which was brought againſt Him, in relation to the receiving thoſe *Letters* from abroad, *viz.* That what has been urged by the *People* belonging to theſe *Coffeehouſes*, (which is nothing) muſt be ſufficient to ſhew Him *not concern'd in this Correſpondence, eſpecially ſince no Letters of this kind were found in his Poſſeſſion, nor any other Papers relating to the Conſpiracy*, p. 11. and the ſame p. 10. about *Cyphers*, &c. Here again He wilfully conceals the *poſitive Proofs* that *ſuch Letters* did come, and were given into his Hands, and receiv'd and paid for by Him: And thinks it a great Point, to alledge that no ſuch *Letters*, or any *Papers relating to the Conſpiracy, were found in his Poſſeſſion*. The *Reader* needs only to call to mind, that it had been Madneſs in Mr. *Kelly*, upon the leaſt Suſpicion of Danger, to have kept in his Poſſeſſion *ſuch Letters* unneceſſarily; that there was Proof of burning of a *Trunk* of *Papers* at his *Lodging*, by his Friend *Bingley*, when He was taken up; that He Himſelf hazarded his Life, to burn *Papers* which were found upon Him by the Meſſengers that apprehended Him; and He will not wonder that what was *burnt*, was not *ſeiz'd*: but He will conclude that *Many Papers* relating to this *Conſpiracy* muſt have been taken in his *Cuſtody*, if They had not been thus diſpoſed of by what *Neynoe* call'd a *General Conflagration*. And, if after this, the *Reader* remembers that ſtill there was *One Paper* left,——a *Paper* relating to this very *Correſpondence*,——a *Paper* relating to the *Conſpiracy*;——I mean the *Paper* of *Directions* of *Letters*; and that this *Paper* was taken in his Pocket, *upon Himſelf*; He will then *wonder* at the *Falſhood* of this *Affirmation* here, unleſs the *frequent Falſhoods* throughout the *whole Speech* have taught Him to wonder at nothing. But what need Mr. *Kelly*, of all Men, trouble Himſelf to urge ſuch an *Argument* as this? For, ſuppoſing there had been *Papers* of the *blackeſt Sort* found upon Him; what would this have imported againſt a Man of ſo much *Dexterity* and *Piety*? He could as eaſily have *anſwer'd* in *this* Caſe, as He has done in *Others*, that They were all forged——not taken in his *Pocket*, but in his *Drawer*——and firſt put there by *Neynoe*, or ſomebody like Him, employ'd for that Purpoſe? And He could as eaſily here likewiſe have call'd in the Help of *Religion*, and have *ſolemnly affirm'd upon the Faith of a Chriſtian, that He had never ſeen them before*. And there had been an End of all his Difficulties. For what *Evidence* can ſtand againſt ſuch *Aſſeverations*, utter'd with ſuch a *Form of Godlineſs*? *Guilt* it ſelf, after this, has but little to fear, when ſuch a Method of *Defence* is ſo ready at hand; pointed out to it by the *Authority* of ſuch *Precedents*, and now *ſanctify'd* by the Example of the pious Mr. *Kelly*, and the *greater* one of his pious *Maſter*.

BRITANNICUS.

PAPER VI.

AFter what I have already obſerved in ſupport of the *Real Charge* againſt Mr. *Kelly*, in oppoſition to his weak and diſhoneſt Replies to it, I have ſtill a Mind to ſhew the Reader that in the *Other* Parts of his *Defence*, in which He wander'd from that *Real Charge* as urged againſt Him, at his *Trial*; and *choſe out* ſuch Imputations upon Himſelf as lay ſcatter'd in the *Printed Reports* of *Both Houſes*, and ſuch as He thought He could attack with the greateſt Succeſs; that even in *Theſe*, He has hardly ſtirr'd one Step, and hardly ſpoke one Sentence, which does not help to prove the ſame determin'd *Diſregard* to Truth, Juſtice and Honour. The Particulars I will mention, as They lie in his own *Speech*: and juſt direct and point out the *Falſhood* and *Prevarication* made uſe of, in them, in the feweſt Words poſſible. And this the rather, becauſe I have long ago mention'd his inſiſting upon theſe *Particulars*, as *One* of the *Artifices* of that *Guilt*, which is ever willing to draw Mens Eyes from what *was* truly and chiefly urged, to what was either not *at all*, or but very *lightly*, touched upon, thro' the *Whole Accuſation*.

P. 4. Againſt the Credibility of his "*employing* Neynoe *to draw up* Memorials *to the* "Regent *of* France *to ſollicit Foreign Forces*, &c." He urges, That *the* Examinations *of* Neynoe *himſelf, which* are the *only Evidence* alledg'd in the *Report, are neither upon Oath, nor ſo much as ſign'd by Himſelf*. But tho' theſe *Examinations* are not *ſigned* with his *Name*, yet *One* of Them (E. 7.) was *all* in his own *Hand-writing*, of which full Proof ſtill remains; which is more than equivalent to the mere ſigning a *Name*: and the Subſtance of All that affects Mr. *Kelly*, reduced into *One*, (E. 10.) was read over to *Neynoe* twice, *Paragraph* by *Paragraph*, and acknowledged

knowledg'd by Him to be true before *Six* Lords of the *Council*, as was beyond all doubt atteſted in the *Houſe* of *Lords*. Nor are *Examinations* uſually upon *Oath*, where the Matter of Them affects the Life of the *Perſon* examin'd, unleſs He voluntarily offers it. And this *Oath Neynoe* had promiſed to take, as ſoon as He ſhould have Time to make his *Confeſſions* compleat, as He engaged to do. *Ib.* Mr. *Kelly* argues, that *Neynoe* could not be employ'd to draw up *Memorials*, becauſe He had *deliver'd* no Copies of them to the *Miniſters* nor *kept* any; as *probably He would have done*, had this been true: and particularly of the laſt in *Dec.* 1721. *when He might be preſumed to have Thoughts of turning Informer.* But I ſay, much *more probably*, He would *not* keep *Copies* of Any thing of ſuch a dangerous Nature; nor be allow'd to do ſo, by Thoſe who employ'd Him, if They could prevent it: Eſpecially conſidering that He could have no Thought (contrary to Mr. *Kelly*'s affected old Miſtake) of *turning Informer*, even when He drew up the laſt in *Dec.* 1721. which was at leaſt full *ſeven Months* before He wrote his firſt Letter to Mr. *Walpole*. And that there were ſuch *Memorials* drawn up, in order to the ſame End, appear'd by authentick Accounts from *France*; which add a *corroborating Teſtimony* to *Neynoe*'s Evidence.

Ib. But Mr. *K.* urges that "*N.* contradicts Himſelf in his *Examinations*, upon this Subject: particularly, in the *Second* He ſays, Theſe *Memorials* were drawn up by the Order of one *Henry Watſon*, ſuppoſed by Him to be the late Earl *Mariſhall*; in the *Third*, That They were deliver'd to Mr. *K.* and *Watſon* together, [*and the Heads given by Them*, which is here omitted:] in his *Fourth*, That They were all drawn up by Order of *Watſon* ONLY; and in a few Lines afterwards, That the Heads were given Him by Mr. *K.* and *Watſon*." Poor Inſtances of Self-Contradiction! As if *Papers* might not very *conſiſtently* be ſaid to be drawn up by the Original Order of *One Man* ONLY, as the ſuperior Perſon; and yet the *Heads* given by *that Man*, and *Another* engaged in the ſame Cauſe. But it is remarkable, that Mr. *K.* in order to make his Weak Objection look the better, has Himſelf, in citing *Neynoe*'s Examinations, foiſted in the *Word* ONLY; and this a Word which He lays ſuch a Streſs upon, that He has printed it in *Capital Letters*, as part of *N*'s *Fourth* Paper: Whereas, whoever looks into that *Fourth* Paper, will ſee that the Word ONLY is not in it; but that Mr. *K.* was forced to coin it for his own Purpoſe, and for a little Shew of an *Argument*. With the ſame View, He leaves out of his Account of *Neynoe*'s *Third Examination*, his poſitive Aſſertion that the *Heads* were given Him by Mr. *K.* jointly with *Watſon*, in order to make the ſame Point (only repeated) in his *Fourth Paper*, look like a *New Invention*. Theſe are not the *Arts* of *Innocence!*

P. 5. Mr. *Kelly* ſpeaks of the Improbability of the Earl *Mariſhall*'s living openly in *England*, and truſting *Neynoe*: when *Neynoe*'s own Account of the Matter is poſitive, that He did *not live openly*, but clandeſtinely, and under a feigned Name; nor truſt *Neynoe*, ſo as to own at all to Him, who He was; or in *any thing*, but what Mr. *Kelly* was very ready [illegible] as far as has yet appear'd) to truſt Him too. *Ib.* Mr. *K.* pretends to prove that "He could not be ſo concern'd in any *Memorials*, becauſe (as it appears by his *Pocket-Book*) He went to *France*, *Nov.* 23, 1721. and did not return till the *latter End* of the next Month: That *N.* owns, He did not ſee Him after his Return till the *Jan.* following; which makes it impoſſible for *N.* to be ſo employed by Mr. *K.* in *December*, the Month in which *N.* pretends to have drawn up theſe *Memorials*." Here again is groſs Falſification, not to be accounted for by [illegible] Neceſſity for it, but what aroſe from *Mere Guilt*. It appear'd by Mr. *Kelly*'s *Pocket-Book*, that He return'd to *England* fifteen Days after the *Wedn.* next following the 23d of *Nov.* i. e. the 13th, or at farthest the 14th of *Dec.* By what Rule of *Speech* this can poſſibly be call'd the *latter End* of *Dec.* I leave to *Him* to ſhew, if He would clear Himſelf from the Charge of direct Falſhood. So that it appears, He was in *England* at the Time when *N.* fixes the Writing of the laſt *Memorial*. Another Inſtance of the ſame Falſhood, is his Aſſertion, that *N.* owns He did not ſee Him till the *Jan.* following. Whereas *Neynoe*, recollecting by Memory the Matter, which was paſt *Nine* or *Ten* Months, uſes the Words *about Jan.* laſt, in E. 7. In all reaſonable Conſtruction, *He* is never accounted *inconſiſtent*, who, in an Affair of ſo long ſtanding, names a Time perhaps a Fornight after the Thing was done; in the ſame Sentence uſing the cautious Expreſſion of *about* that Time, which ſurely may take in a *Fortnight before* it, or *after* it; eſpecially in the Opinion of a *Gentleman*, who, in ſtrict Pleading, and knowing the preciſe Time of a Matter of Fact, can call the 13th of *Dec.* the *latter End* of that Month.

Ib. He comes to the *Letter* fixt by *Neynoe* upon Mr. *K.* as well as Himſelf, *as written with a Deſign to amuſe the Government into a Falſe Security*. This *Accuſation* Mr. *K.* declares impoſſible to be true, becauſe (as He ſays Himſelf) He was in *France* all the Month of *March*, in which that *Letter* was placed by *Neynoe*; and therefore, could not employ *N.* in any ſuch *Letter*, at that Time. This ſounds very plauſibly; eſpecially ſince it is certain, Mr. *K.* was in *France*, as He here repreſents. But it all amounts to more than this, that *N.* made a Miſtake of the *Date* of the *Letter incloſing*, for the *Date* of *that* which was *incloſed*. The *Letter* thus ſaid to be writ jointly by Mr. *K.* and *N.* [*viz.* That printed in the *Appendix* of the *Lords Report*] is dated *Feb.* 12, 1721-2. at which Time Mr. *Kelly* was by his own Confeſſion in *England*, and therefore capable of joining in it. But the *Letter* to the *Secretary* of *State*, in which

That was incloſed, is dated *Mar.* 31. which was a *Saturday*, as *N.* makes it; and the *Date* of this laſt *N.* miſtook for the *Date* of the firſt. That the *Letter* dated *Feb.* 12. is the *Letter* referr'd to by *Neynoe*, is put beyond all doubt by the *Teſtimony* of Mr. *Walpole*, upon Oath, that *N.* in Converſation gave Him a particular Account of the *Contents* of that *Letter*, under the Notion of a *Letter* writ for that View of giving the *Government* a Falſe Security; without having the leaſt Hint given Him of any ſuch Letter in the Hands of the *Miniſters*. How it came to their Hands, was ſomething extraordinary. For, it was directed and ſent to the *Poſt-houſe*, in ſuch a manner, as might moſt probably create Suſpicion, in order to be there intercepted. But it happen'd not to be intercepted: upon which, it was afterwards ſent by a private Meſſenger, to One of the *Secretaries* of *State*, incloſed in another *Letter*. And to clear the Matter farther, Mr. *Kelly* has, in his own Defence upon this Head, furniſh'd an Argument not to be retracted, or anſwer'd by Himſelf. "*Had this Examination* [viz. of *Neynoe*] *been taken at any Diſtance of Time, it is poſſible He might be miſtaken in it*; [i. e. might have miſtaken *Mar.* 31. for *Feb.* 12] *but his Firſt Information muſt have been about the Middle* of *April* —— *And ſurely, He cannot be ſuppoſed to have forgot ſo ſoon what happen'd the very Month before* —— &c. For this Examination was taken at a conſiderable Diſtance of *Time*; it having been proved over and over again that *N.* was not heard of by Mr. *Walpole* till *July* the 28th: And his *Examination* was not taken till He was brought back from *Deal*, about the *Middle* of *September*; which is *ſeven Months* after the *Letter* in debate was writ, and almoſt *ſix Months* after the *Letter* which incloſed it was writ. And therefore, by Mr. *Kelly*'s own Confeſſion, *Neynoe* might very eaſily make ſo ſlight a Miſtake, as that of remembring the *Date* of the *Laſt* for the *Date* of the *Firſt*, which was incloſed in it; and this without invalidating his Evidence at all.

Ib. That *N. declared* that Mr. *K.* was a *Month out of Town*. [i. e. from the latter End of *Nov.* to *Dec.* following] without his knowing any thing of it, muſt be added to the Number of his *Falſe Aſſertions*: becauſe *N.* (in E. 7.) does expreſly mention Mr. *Kelly*'s returning from *France* about that Time: which ſhews He knew of his having been abſent. Of the ſame ſort is the Affirmation, [*ib.*] that it *had been fully proved that* Neynoe's *Viſits at Mr.* Kelly's *Lodgings were NEVER to Him, but ALWAYS to Another Perſon.* For *Malone* depoſed, that whilſt He lived with Mr. *Kelly*, *Neynoe* had *often* call'd and ask'd for *Him*, (and not for the *Other* Perſon) under the Name of *Johnſon*; and by Mr. *K*'s own Evidence it appear'd, that there was ſuch an Intimacy between them, that when Mr. *K.* was not at home, *Neynoe* was without Scruple let into his Room, to ſtay till He came in. *Ib.* His *ſolemn Affirmation* about not knowing any Perſon who went by the Name of *Watſon*, can be of no more Value, than *That* as *ſolemn* One, upon Another Subject, which I have lately ſhewn to be abſolutely incredible.

P. 6. Mr. *Kelly* comes to the *Charge* againſt Him for acting under the late *Biſhop* of *Rocheſter*, in the *Conſpiracy*, as it lies in the *Report*; tho' it was not at all urged againſt Him at his *Trial*. His firſt *Defence* is taken from the groſs and notorious Falſhoods He has ſhewn *Neynoe* guilty of, under the *former Article*: which therefore make his Teſtimony of no Value, in this Point; *viz.* that Mr. *Kelly* had often told Him He uſed to write treaſonable *Letters* for that *Prelate*. But this *Defence* muſt be uſeleſs to Mr. *K.* becauſe I have not only ſhewn that there is nothing of that *Falſhood* in *N*'s Evidence upon the former *Article*; but that the Charge of *notorious Falſhood*, in that very *Article*, lies upon Mr. *Kelly* too cloſe to be wiped off. Nay, even here, whilſt He is charging *N.* with *Falſhood*, He utters One of the greateſt, in affirming *Neynoe* to be *the only Evidence* of this Charge; unleſs He trifles egregiouſly with the Word *Evidence*. For leaving all *N*'s *Examinations* out of the *Queſtion*, the Names of *Illington* and *Jones*, the Circumſtance of the *Dog*, and Mrs. *Barnes*'s poſitive Evidence about it, and the Proof of Mr. *Kelly*'s writing the *Three Letters* ſign'd *Jones*, &c. are unanſwerable Arguments againſt Him. But it ought to be remember'd, that *Neynoe* not only affirm'd This from Mr. *Kelly*'s Mouth; but gave Mr. *Walpole* ſufficient Proof of it, by acquainting Him (as He, upon Oath, gave Evidence) with the very *fictitious Names* by which the *Biſhop* went in that Correſpondence; and by giving Him a particular Account of the *ſeveral Sorts* of *Cyphers* by which it was managed: the *Former* of which the *Miniſters* at that Time knew to be true, tho' *Neynoe* had not the leaſt Hint that They knew it; and the *Latter* They then had found in part, and afterwards found in the whole, to be exactly true. Theſe, and many other concurring Circumſtances, are far from *Proofs* of *mere Invention*.

Ib. Mr. *Kelly*'s next *Defence* (not of *Himſelf* indeed, ſo much as of his *Reverend Maſter*) conſiſts of *ſolemn Declarations, upon the Faith of a Chriſtian*, of the very ſlender Acquaintance between Them; and of his having never once either wrote or received a Letter for the late *B.* of *R.* and the like. I muſt repeat, that in a *former* Paper I have ſhewn how free of *Solemn Affirmations* this *Gentleman* can be, againſt the moſt *poſitive* Evidence. But I will now take Notice of *two Particulars* in this very *ſolemn Declaration*, in this Place: and if the *Reader* can believe *Theſe Two*; I give Him leave to believe all or any of the reſt. The One is, *That He never went privately in a Chair to that Prelate's Houſe*; the direct contrary to which was ſworn at the *Biſhop*'s Trial, by *Two Chairman*; both of which were poſitive to the carrying Mr. *K.* thither, and *One* of Them ſaid, at leaſt two or three Times. And indeed, the Acquaintance and Correſpondence was ſufficiently proved.

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The *Other* Particular is this, *ib.* "*And as for the* Dog, *which has been brought as a Circumſtance to prove this Matter, I do, in the ſame ſolemn Manner*, declare, *HE was given Me by a Surgeon at* Paris——*and that He never was deſigned for any Body but the Perſon I gave him to.*" An inward Contempt of every thing ſacred and ſolemn, muſt be the Foundation of Such *Declarations* as this. For it was *ſworn* afterwards at the *Biſhop's* Trial, by Mr. *K's* own Friend Mrs. *Barnes*, that when He gave her *that Dog*, which was the only One ſhe ever had from Him, ſhe was in hopes it was for *Herſelf*, (according to a Promiſe of his,) but that He told Her, This was not the *Dog* He deſign'd for Her; that *this* was for the *Biſhop* of *Rocheſter*, and only to be kept by Her till the Leg ſhould be well; but that, upon her Importunity, He told Her, (which had been hitherto a Secret) that a Surgeon at *Paris* had promiſed Him a *Dog* of the ſame ſort, which was deſign'd for Her. Theſe *Circumſtances* were ſo very remarkable, that She could not forget, or be miſtaken in them. And no One, who knows what had paſſed between Mr. *K.* and *Her*, could ſuſpect Her to be *inclined to hurt Him*. So far from that, that when She was before the *Houſe* of *Commons*, and Mr. *Kelly's* Fate alone was depending, and She was *not* upon her Oath, *She* endeavoured to palliate this Matter, and to appear as if ſhe remembered no ſuch Circumſtances as Thoſe She had before own'd to the *Lords* of the *Council*. But when *She* came before the *Houſe* of *Lords*, and had taken an *Oath* to ſpeak *Truth*, She Herſelf gave That as a *Reaſon* why She could not conceal or deny theſe *Circumſtances*, viz. becauſe She conſider'd Herſelf under the ſolemn Obligation of an *Oath*. This was in the *Biſhop's* Trial: which coming *after* Mr. *Kelly's*, and *after* She had in another Place appear'd inclined to hide the Truth as much as poſſible, muſt have been the *ſole* Ground of Mr. *Kelly's* truſting ſo far to her Denial of theſe Circumſtances again, as to venture to *declare ſolemnly, upon the Faith of a Chriſtian, a Notorious Falſhood*, which his *She-Friend*, in two or three Days, abſolutely contradicted upon *Oath*.——Go now, and truſt to ſome Mens *ſanctified Declarations*.—What He adds about the *Surgeon's* Certificate of a *Dog* ſent for Mrs. *Barnes*, is now accounted for, by the Diſcovery that there were *Two Dogs*; and the *Meaneſt Prevarication* diſcover'd at the ſame time, both in Mr. *K.* and the *Prelate*, who could ſtoop ſo low as to alledge a *Certificate* about *One Dog*, (of which the *Surgeon* who ſent it ſays He never heard any thing after it was ſent,) as relating to *Another Dog*, of whoſe Arrival and Miſchance frequent Accounts are given in the *Letters* writ back to *Thoſe* who ſent it. *Ib.* That the *Biſhop* never *ſaw* the *Dog*, nor ſent for Him, *&c.*—— I can eaſily believe, when ſoon after He arrived, and before his Leg was cured, this Matter was known by Himſelf to be a *Circumſtance* which pointed at *Him*. Nor do I wonder therefore at what Mrs. *Barnes* atteſted, That whilſt She was once out of Town, the *Dog* was made away with: which no One will believe would have come to paſs, if this had been the very *Dog*, which Mr. *Kelly* impiouſly affirms, upon the *Faith* of a *Chriſtian*, to come from a *Surgeon* at *Paris*, and to have been originally deſign'd for Mrs. *Barnes* only. A *Dog* ſo innocent might have been permitted to live: but *One* that threaten'd Danger to a *Great* and *Holy* Man, muſt be put out of the Way, as other *Evidences* ſometimes have been. But I cannot help to wiſh here, that for the Sake of Appearance, if not of Religion, They, who are reſolved to make ſuch *ſolemn Declarations*, would only ſtay, before They do it, till They know the whole *Evidence* which will be produced upon the *Subject* of ſuch *Declarations*.

BRITANNICUS.

PAPER VII.

THE *remaining Particulars* of Mr. *Kelly's* Speech, here follow. *P.* 7. He wanders again from the ſtrict *Charge* againſt Him, at his *Trial*, to that *Depoſition* in the *Report* of the *H. of Commons*, in which Mr. *Pancier* ſwears *that Another* [Skeen] *told Him of this Conſpiracy*, with the following Circumſtances; *That* Six *or* Eight Battalions *of* Iriſh Forces *were to come from* Spain, *to aſſiſt the Conſpirators*; *That* 200,000 l. *were raiſed, and* 800 *Men regularly ſubſiſted in* London, *for this Purpoſe*. The *Incredibility* of theſe Particulars, is his Argument here againſt the *Truth* of the *Depoſition*. But granting this to be in great meaſure a good Argument; it is indeed no more to Mr. *Kelly's* Innocence, than if He had quoted a Paſſage out of any *Romance*. It was the *Wiſdom* of the *Government*, to publiſh what was brought before Them in the way of *Diſcoveries*, eſpecially ſuch as were given in upon *Oath*: but it was their *Wiſdom* likewiſe to lay no Streſs upon any thing, but what the Nature of it would bear. Mr. *Pancier* comes and ſwears that one *Skeen*, giving Him an Account of the *Conſpiracy*, told Him Theſe Particulars. And it is known to be a very common thing for *Conſpirators*, who have a Mind to engage Others in their Deſigns, to *magnify* all their *Real Strength*, and to *invent* whatever They pleaſe, to encourage thoſe Others, and poſſeſs Them with a great Opinion of future Succeſs. But what is all this to Mr. *K.* whom this *Depoſition* of *Pancier's* did not in the leaſt affect? Does any thing Mr. *K.* has ſaid prove, or pretend to prove, that *Skeen* did not tell *P.* theſe *Particulars*; which is the only Point depoſed by *Pancier*? Or rather, (which is the only Point of Importance to Mr. *K.*) Will He be willing to appear ſo weak as to argue thus, One *Skeen* told One *Pancier* Things about the *Conſpiracy*, that could not be true. Therefore, I am innocent——Therefore, Points of quite *another* kind, laid to my Charge, upon *Other* Grounds, and by the Concurrence of *Other* Evidence, are all Falſe likewiſe. Or thus, It is falſe, (what

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One Man ſays,) *that* 200,000 l. *was raiſed for the Military Cheſt*, &c. Therefore, It is falſe that *I wrote and received treaſonable Letters*: which does not depend upon *That Man*'s Teſtimony. Away with ſuch Wandring and Impertinence of *Argument*.

Ib. But Mr. *K.* would not ſeem ſo diſtant from all *Shew* of Argument; and therefore, gives it in this Place as a *Reaſon* for taking Notice of this *Depoſition*, That "*Theſe — are called, in the* 38*th p. of the* Report *of the* Lower Houſe, *the* Concurrent *and* Corroborating Proofs *of his Accuſer*'s [Neynoe's] *Examination*." By which He has only ſtill more ſhewn either his *Tendency* to Blunder, or his *Reſolution* to Miſrepreſent. For whoever will look into that *Report*, will ſee that *thoſe Words* refer expreſly to the *Sequel* of the *Report*; and not particularly to the *Paragraph* immediately following them, to which Mr. *K.* is pleaſed to make them refer, tho' that *Paragraph* has manifeſtly no relation to *Neynoe*'s *Examination*. And as Mr. *K.* knows that this *Diſcourſe* (whatever it was) between *Skeen* and *Pancier*, was not in the leaſt urged, as even a *corroborating Proof* of *his* Guilt, He might have ſpared his *Tragical Exclamation* in this ſame Place, about the Danger to *Life* and *Liberty* from *ſuch Hear-ſay Evidence*; — and from any *Two Men talking a Third Perſon into High-Treaſon*: and He might have ſpared his own Conſcience the uneaſy Reflection upon ſo Groſs and Willful a Miſrepreſentation of his *Judges* and *Superiors*, as does in expreſs Words lead the *Reader* to think that this very *Evidence* had been urged, even as a *ſufficient Evidence* (for that is his Expreſſion) againſt *his Life* or *Liberty*, whilſt He was conſcious it was not ſo much as mention'd, but by *Himſelf*; and *that*, becauſe He thought He could *abuſe* this *ſuppoſed Evidence*, much more eaſily than He could *anſwer* the *Real*.

But ſince We are ſpeaking of what was *not* at all urged, as any *Corroborating Proof* of *Neynoe*'s *Examinations*, there comes into my Mind a *Matter* not yet mention'd, which afterwards appear'd at the *Bar*; and which was indeed a *Corroborating Proof* of that Part of *Neynoe*'s *Examination*, in which He declares that He Himſelf frequently left Mr. *Kelly* at the late *B.* of *R*'s Houſe; and waited for Him thereabouts, till He came out again. This was the *Teſtimony* of one Mr. *Lloyd*, that keeps the *Star* and *Garter* in *Old-Palace-Yard*, who *voluntarily* offer'd Himſelf; and gave Evidence upon Oath, that, being related to *Neynoe*, He frequently came to his Houſe; and particularly *laſt Summer*, three times juſt after the Death of Lord *Sunderland*; (which is a *Critical Time* in one of the *Treaſonable Letters*;) and ſtay'd at his Houſe an Hour or *more* at a Time; giving it as a *Reaſon* of his calling there, and *ſtaying*, that He had left a Friend at the *Biſhop*'s Door, who uſed often to go to that *Prelate* about Buſineſs of Conſequence, and had free Acceſs to Him at all Times; and adding, that He muſt go to the *Cloyſters* to meet that Friend again, as ſoon as he ſhould have done his Buſineſs with the *Biſhop*: Which is indeed a *Corroborating* Proof of the Truth of what *Neynoe* had ſaid. To return,

In p. 11, He comes to *Another Point*, mention'd indeed at his *Trial*, but not charged expreſly and poſitively upon *Him*; viz. "*A Letter to Mr.* Gordon *at* Boulogne, *with* Two Affidavits, *ſuggeſted* (ſays He) *to be ſent by my Directions, in order to have* Him *and* Mr. *Birmingham* perjure Themſelves upon my Account." This *Letter* with the *Affidavits* was brought to the *Secretary* of *State* by one *Garth*, to whom it was delivered (to be carried to *France*) by one *Akenhead*. And the Suſpicion is very natural, that the *Perſons* who were to profit by ſuch *Affidavits*, did either Themſelves ſend them; or that their *Friends* contriv'd to do it for Them. But, How does Mr. *K.* handle this? He does not deny that ſuch *Letter* and Infamous *Affidavits* were going to *France*; and thus ſtop'd from going. But He firſt attempts to clear Himſelf, thus; "*This Letter* (ſays He) *is dated the* 20*th of* March; *at which Time, and for five Months before, I was ſo conſtantly guarded, that I could not have given Orders for this End, without being diſcover'd.*" And yet, All this is overthrown by one *unlucky Circumſtance* which He hides, *viz.* That tho' the *Letter* is dated *March* 20, yet it was not *deliver'd* to *Garth* to be carried abroad, till ſeveral Days after Mr. *Kelly*'s Sollicitor had Acceſs to Him: and therefore, *might*, notwithſtanding this Argument, be a *Management* of Mr. *Kelly*'s; and the *Date* put *backwards* out of Art and Cunning. "*Beſides*, He argues, *A Perſon was diſpatch'd to* France, *who brought an* Affidavit *in a different Form from* Theſe *in queſtion*." As if a *Perſon*, to whom it was of the utmoſt Importance to be ſure of an *Affidavit* in *One* Form or *Other*, might not ſend a Meſſenger for *One* in a *Form* leſs offenſive; and at the ſame time, ſend for *Another* in a more groſs Form, and in a Way, in which, if it ſhould be diſcover'd, it could not be demonſtratively fixt upon Himſelf. But, as We paſs, a *Queſtion* here ariſes, upon Mr. *K*'s own Argument, very hard for Him to anſwer, *viz.* Since *a Perſon was thus ſent on purpoſe*, Why did not this very Perſon appear, and atteſt that Mr. *Gordon* ſign'd the *Affidavit* at *Boulogne*, in his Preſence? And why was this *material Point* left deſtitute of all manner of Proof?

But to proceed, Mr. *K.* after having thus clear'd Himſelf, and then his *Sollicitor*, by ſaying, That he can teſtify *that no Draughts were ſent by Him*; (which, to be ſure, Whoever ſent ſuch *Draughts*, would not ſcruple to depoſe;) ſtill is not content: but with the Uneaſineſs of Guilt, and *Shameleſsneſs* of Iniquity, has recourſe to his *Old Art* of laying That, as a *Forgery*, upon his *Superiors*, which otherwiſe muſt lie too ſtrongly upon *Himſelf*, or his own Friends. He ſpeaks of *the groſs Management of the Perſons concern'd in this Affair*, as an Argument that *This Forgery* muſt be likewiſe added to *Their* Account: than which abominable Way of treating Every thing which touches Him, there is nothing

nothing more Impudent, nor more truly demonſtrative of the *Guilt* of Him who makes uſe of it. If He had ſaid, that He hoped He ſhould not be made anſwerable for what ſome officious Ignorant Friend, unknown to Him, might have done, under a falſe and miſtaken Hope of ſerving Him; there had been ſome Modeſty and Senſe in it. But, to throw it upon his *Accuſers*, as *their* Wickedneſs; that is, to repreſent *Them* as *forging* a Thing, which He ſaw, at the ſame time, They Themſelves treated only as a remarkable *Matter of Fact* that had happen'd in the Affair of *Gordon*, without poſitively charging Mr. *K.* with the Contrivance; What can One ſay? Such an Inſinuation ſhews at once the *Malignity* of the *Heart*, and the *Weakneſs* of the *Head*.

He concludes this *Article*, according to Another of his *Inexcuſable Cuſtoms*, with *ſolemnly Affirming, That* He *never knew any thing of theſe Affidavits; that* He *never heard of the Name of* Akenhead *before*; *and* (obſerve what He adds) *nor can I find out any Perſon, beſides the Maſter of the Veſſel, that ever did. Solemn Affirmations* are of no Force from thoſe who have ſhewn their Diſregard to *Truth*. But in *theſe*, He is peculiarly unfortunate. For the *Laſt* of the *Three* is, of it ſelf, enough to convince all his *Readers*, either of the *Falſhood* of the *Other Two*; or of the great Negligence and Eaſe with which He permits Himſelf to ſay what He pleaſes. For the *Woman* of the *Houſe* where this *Akenhead* lodg'd, had been at the *Bar*, before this *Speech* was deliver'd; and upon Oath gave an Account how long He had lodg'd with Her: and declared that, upon the Diſcovery of this Matter of the *Affidavits*, and the firſt Noiſe about it, He ran away, tho' He had *Wines* and other *valuable Goods* in her Houſe; and choſe to loſe the *Sale* of them, rather than ſtay. Let any *Reader* of *Common Senſe* judge whether this Circumſtance, and the Silence of Mr. *Kelly* upon it, make this Contrivance of the *Affidavits* look like the *Forgery* of his *Adverſaries*, or the *Wicked Deſign* of *Himſelf* or his *Friends*: And, Let any One of *Common Honeſty* determine, What is to be thought of a *Man*, who *heard* this *Account* given *upon Oath* at the *Bar*, and immediately could permit Himſelf to pronounce a *ſolemn Affirmation*, that He could "*find out* NO *Perſon, beſides the* Maſter *of the* Veſſel, *who ever heard of ſuch a Man as* Akenhead.

The *Other Point* He mentions p. 12. is "a Crime ſet forth in one *Levett*'s Depoſition in the *Report* of the *Houſe* of *Lords*——viz. That Mrs. *Barnes* told her, Mr. *K. was inſtrumental in, or privy to, the ſhutting up a Perſon in a Dungeon, for fear of his turning Informer*;" and the like. This *Depoſition* was indeed printed, becauſe it was ſo depoſed by Mrs. *Levett*: And from the printing This, and the like *Depoſitions*, which were only Accounts of what had paſs'd in Converſation between *Women*, and *Men*, juſt in the natural Manner in which they were made; I think it may be argued, that there was no *Art* or *Trick* put in Practice, either to procure ſuch *Evidence*, or to conceal what They ſaid. No Uſe was made of This; nor was it ſo much as mention'd againſt Mr. *Kelly*; but officiouſly by Himſelf. And if He will chuſe to fight with *Shadows*, inſtead of *Subſtance*, it will only ſtill more ſhew, that He well knows on which part his own *Weakneſſes* lies. All that Mrs. *L.* ſays is, that Mrs. *B.* told Her this Story. And Mr. *K.* I dare ſay, has not convinced any One Perſon that *She* did not tell *Her* ſo. He propoſes, They ſhould be confronted. Let it be ſo. Mrs. *L.* affirms: Mrs. *B.* denies. Which of the Two ſhall be believed? At the Time indeed, when this *Speech* was ſpoke, Mrs. *B.* was, in Mr. *K*'s Opinion, a very *Credible* Perſon. But a Day or two afterwards, when upon *Oath*, She diſcover'd the Secret of the *Two Dogs*, One of which only was come; and when upon *Oath* ſhe invalidated all her Friend's *Solemn Affirmations* about the Relation between the *Biſhop* and the *Dog*; her *Credibility* from that Moment muſt have ceaſed with Mr. *Kelly*; and it muſt have become equal to *Him*, Which of the *Two* Women is *believ'd*: unleſs perhaps He had rather *now*, Mrs. *L.* ſhould be believ'd; becauſe if Mrs. *B.* be a Credible Perſon *againſt* Mrs. *L.* She muſt be equally a *Credible* Perſon *againſt* Mr. *Kelly* and his *Eminent Friend*; and do much more *hurt* to their Cauſe, by her Teſtimony, *One* Way, than She can do *good* Another.

By this Time it ſufficiently appears, with how great and how ſhameleſs Diſingenuity Mr. *K.* at the Opening of his *Defence*, charges the *Two* printed *Reports*, with *Inconſiſtencies, Contradictions, Falſe Concluſions, Weakneſs, Abſurdity* and *Sophiſtry*, in almoſt *Every Page* of them; and this, as an *Introduction* to the *Juſtice* and *Favour* of the *H.* of *Lords*, whoſe *Reports* They were *Both* in effect now become. For I have follow'd Him, tho' wandring out of his Way, to *Every particular Paſſage* of the *Reports* He has tried his Skill upon; and have ſhewn that, even in *Theſe*, which He has choſen out as *Weakeſt*, He has not given Proof of *One Contradiction*, or One ſingle *Falſe Concluſion*; nor of the *leaſt Abſurdity*, as far as the *Intention* of putting them into thoſe *Reports*, or the *Uſe* there made of them, extended themſelves: but that on *his own Part* indeed, He has, all along as He paſs'd, added a Heap of *Incidental Inconſiſtencies* and *Abſurdities*, to the Guilt of his main Cauſe. I can think of nothing to equal the *Bluſtring Rudeneſs* of this *Attack* at the *Entrance* of his *Speech*, but the *Unbluſhing Aſſurance* of his *Aſſertion* at the *End* of it, That *it was not pretended that He had tranſgreſs'd any Law yet in being*: as if the *Law* againſt all *Treaſonable Correſpondence* with *Enemies* were not, in its own Nature, One of thoſe *Laws*, which co-exiſt with Humane Society, and are *always* in being; and as if our *particular Law* about it did not ſufficiently declare it a *Criminal Point* deſerving Puniſhment, tho' an *Offender* may be ſo *Cunning* as to preclude the *Oral Teſtimony* particularly required in it; and as if his own *Confeſſion* of the

Reaſon-

Reaſonableneſs of *Proceeding* by *Bill* in *Extraordinary* Caſes, did not it ſelf take from Him the *Benefit* of ſuch a *Falſe Allegation* as this. But it was fit, that the *Good Manners* and *Good Senſe* of the *Beginning*, ſhould be equall'd by the *Modeſty* and *Truth* of the *Concluſion*.

I have now made an End of the *Remarks* which offer'd Themſelves upon Mr. *Kelly*'s *Defence*, in which I have not omitted even the ſlighteſt *Trifles*; that the Whole may be ſeen in its full Strength. I enter not, at preſent, into any of his *Obſervations* upon the *Method* of *Proceeding*, upon this Occaſion, by *Bill* in *Parliament*: Every One, as well of Them who favour'd the *Perſons* accuſed, as of Them who did not, allowed the Reaſon and Juſtice of it, upon proper Occaſions. All the Difference was, *Some* thought the preſent a neceſſary Occaſion, *Others* thought not. For my own part, I can ſee no Uſe of ſuch a *Power* at all in our Government; unleſs it be exerted, whenever a *Conſpiracy* appears *undoubtedly* to have been carrying on; and whenever the *Conſpirators* have uſed all their *Caution* and *Cunning* to manage their Parts ſo, as not to have put it in the Power of any *Two Oral Witneſſes* to the *ſame Species* of *Treaſon*, to teſtify againſt Them. That there may be *Evidence* as *ſufficient*, and as *convincing*, even in *Capital* Caſes, as the *Teſtimony* of *Two Witneſſes* to an *Overt-Act*, is paſt all doubt; and is proved from the Practice of the *Courts* below Themſelves, in the Caſe of *Trials* for *Murther*. That it is incomparably *harder* for any Perſons in Power, (were they as *Wicked* as Mr. *K.* and his *Maſter* have for their own Ends painted Them out,) to invent and forge a vaſt Number of *Concurrent Circumſtances*, all conſpiring uniformly to prove the ſame *Facts*; than to *bribe* and *corrupt* Two *Witneſſes*; muſt be granted by *All* who will think over the Matter deliberately. That there is a *Multitude* of ſuch *Concurring Circumſtances* in the Caſe of Mr. *Kelly*, the *Reader* has ſeen. And as to the *main Art* of his Defence, It has been proved too plainly to be doubted of, That, whilſt He has attempted to throw the *Invention* of what was impoſſible to be *invented*, upon his *Superiors*; He has run Himſelf into *Irreconcileable Abſurdities*; falſifying the *Evidence* He thinks fit to produce; hiding from his *Reader* All that was *ſtrong*, and chiefly inſiſted upon; running out into *Matters* entirely foreign to what was truly alledged againſt Him; making the *Whole* a *Contrivance* between a *Great Man* and *Another*, which *Other* Perſon was not ſo much as heard of by that *Great Man* till above *Three Months* after many *Letters* relating to the *Conſpiracy* were intercepted; and all the while carefully paſſing over in Silence (let not this be forgot) Every *Circumſtance* which could not poſſibly be a Part of any ſuch *Contrivance*. For Inſtance, If *Neynoe* could have *forged Letters* for Mr. *Kelly*; yet *Neynoe* and the *Greateſt Man* in the World, with *all the Power* of the *Greateſt Man* in the World, could not, by any Contrivance between *Themſelves*, make *Correſpondents* abroad for Mr. *Kelly* to his own Mind; and cauſe *Letters* to be writ back by ſuch Correſpondents, with ſuch *Directions* as Mr. *Kelly* had in his *Pocket-Book*; and theſe *Letters* to be left at ſuch *Houſes* as Mr. *K.* ſhould expect Them to be found at; and even much leſs could They force Mr. *K.* whether He would or no, to call *Himſelf* at *One Coffee-houſe* for an *Anſwer* to *Letters* forged by *Neynoe*; and, after ſeeing Himſelf detected there, force Him to order *Other Perſons* to take in ſuch *Anſwers* for *Him*; and force Him to *pay* for theſe *Letters* ſo taken in: All which was ſo plainly proved, that Mr. *K.* does not attempt to give any *Anſwer* to theſe *Facts*, but ſuch a One, as ſhows He could give none. But no more.

When I think of *Him*, as a *Subject* of *Great Britain*, thus attempting, with a deſperate and ſedate Reſolution, the Ruin of his Country; When I think of *Him*, as a *Clergyman*, thus voluntarily throwing off the Cares of his Function, and mixing Himſelf ſo ſcandalouſly in the *vileſt* Affairs of this World's *Politicks*; When I think of *Him*, as a *Chriſtian Preacher*, proſtituting the Sacredneſs of *Solemn Affirmations* pronounced upon the *Faith* of a *Chriſtian*, and making vile his *Holy Profeſſion* in the Eyes of *Infidels* and *Enemies*; When I think of——But I can go no higher.——It is Time for *Him* to *think* of *Himſelf* under theſe Views, in another-guiſe Manner than He appears to have done yet: And if He does, He will beſt judge what *Reparation* He can make to his *Injured Country*; What *Reſtitution* to *Thoſe*, whom He has, without Mercy or Juſtice, againſt all *Truth* and all *Modeſty*, ſo infamouſly traduced; and above all, What *Amends* to the Cauſe of Vertue, Morality, Conſcience, and Honour; to the Intereſts of the *Beſt Religion*, and the moſt *Holy Profeſſion*—— which muſt all bleed from the Wounds He has reſolutely and inhumanely given them.

BRITANNICUS.

FINIS.

8

THE DEFENCE OF FRANCIS,

Late Lord Biſhop of *ROCHESTER*;

At the BAR of the

Houſe of LORDS,

On *Thurſday* the 9th, and *Saturday* the 11th, of *May*, 1723.

AGAINST THE

BILL then depending for inflicting PAINS and PENALTIES on him.

BY

WILLIAM WYNNE Eſq;

One of his Lordſhip's Counſel. . . .

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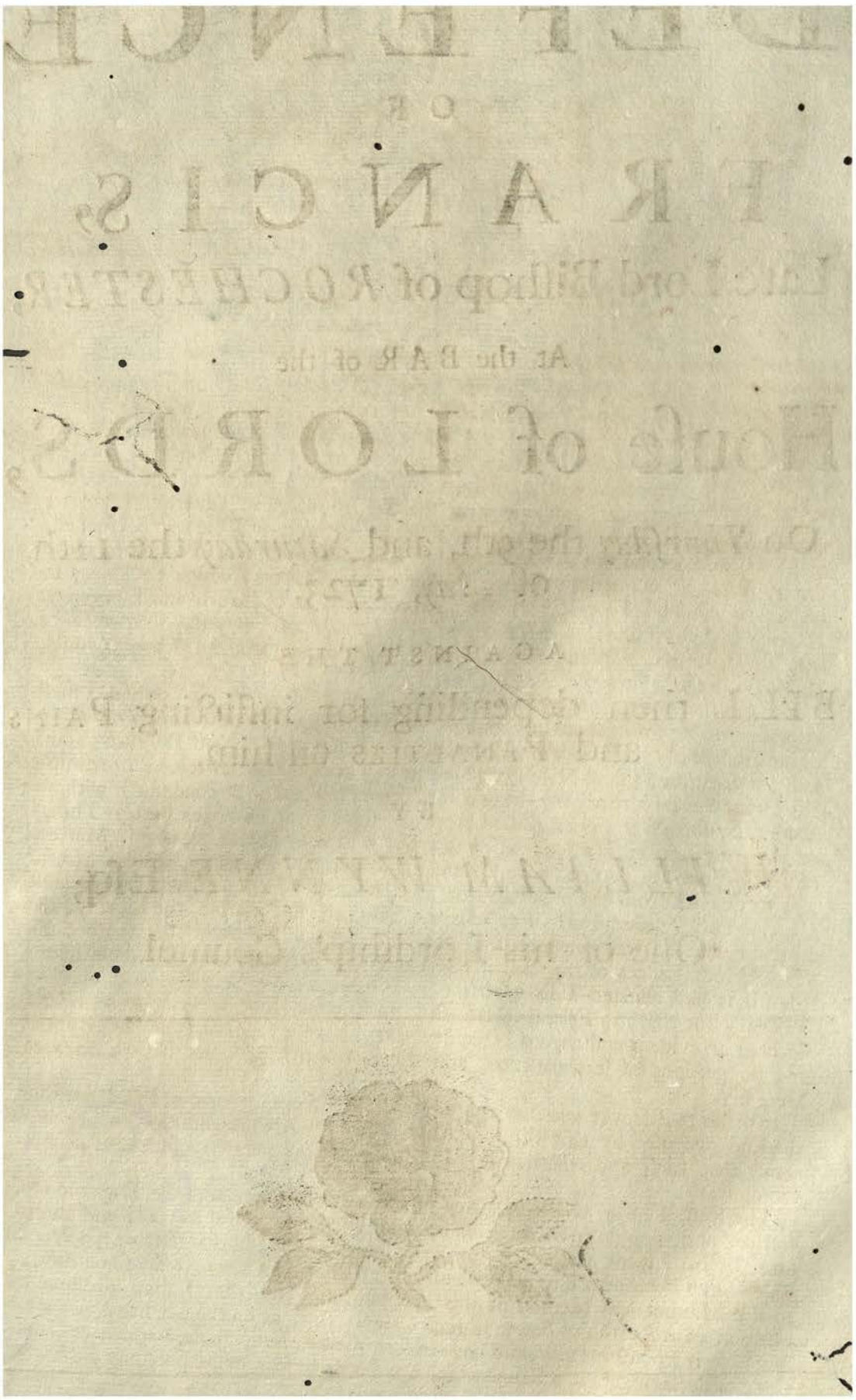

Mr. *WYNNE's*

DEFENCE

OF

Francis, *late Lord Biſhop of* Rocheſter, *on* Thurſday *the 9th of* May.

May it pleaſe your Lordſhips,

I AM of Counſel for this Reverend Prelate, and however unneceſſary I know Apologies to be before your Lordſhips, who are always ready to hear what the youngeſt and moſt unexperienced Perſon has to offer; yet it becomes me to ſay ſomething for my firſt Appearance at your Lordſhip's Bar, in a Matter of the laſt Conſequence; and it was the Deſire of this Reverend Prelate, rather to make his Defence by ſuch weak Hands as mine, as if he was perſuaded, that his Cauſe needed not the Aſſiſtance of Art or Experience, in order to move the Paſſions, or to impoſe upon the Reaſon of his Hearers; which he knows to be but an impotent Help to Perſuaſion, in compariſon of Truth and Innocency. He appears before thoſe, who (he hopes) will regard plain Facts and poſitive Law; and Truth, notwithſtanding all the Diſadvantages of an unskilful Pleader, wou'd, he hop'd, at laſt prevail.

For my own part, ſince your Lordſhips have aſſign'd me for his Counſel, I ſhall be under no Apprehenſions of Danger or Diſpleaſure in performing my Duty to him, in humbly offering every thing I think neceſſary for his juſt Defence; and I will not doubt, but I ſhall be fully and favourably heard. And tho' it is his Lordſhip's Misfortune to be already pre-judg'd in another Place, and to be condemn'd without Doors, by ſome few vulgar miſled Apprehenſions; yet he hopes better Things of you, my Lords: He does not doubt, but that your Lordſhips, who in Matters of leſs Importance proceed with Calmneſs, Juſtice and Prudence, will be careful not to deviate from thoſe Meaſures, in a Matter which demands the greateſt Caution and Deliberation: For it is the Caſe, the Reputation, the Liberty, the Fortune, and (I was going to ſay) the Life of a moſt Learned Prelate; becauſe ſome Circumſtances of this Bill are ſo cruel and extreme, that it is little better than if it had affected Life itſelf.

Every one that is a Friend to this Bill, muſt avow, that it is not to be offer'd without an evident and cogent Neceſſity. But, I hope, my Lords, (tho' the Grounds and Suggeſtions of it were true, and duly proved) yet that there is no ſuch Neceſſity.

In order to diſcover whether there be any ſuch Neceſſity or not, I ſhall conſider the End propoſed by this Bill, and then weigh the Means whereby 'tis hoped to attain that End, and whether this Bill be a Means neceſſary or convenient to attain it.

The End, I hope, is the Security of the Government, and the Execution of Juſtice, and it ought to be purſued by all regular and lawful Means; and therefore, before I ſpeak particularly to the Crimes ſuppoſed in this Bill, or the Proofs which have been offer'd to make them out; I ſhall beg Leave to ſay ſomething as to the Manner and Method of this Proceeding. Not that I ſhall preſume to queſtion your Lordſhips Power in ſuch Caſes: But, as on the one hand, we muſt admit your Lordſhips may, and have in ſome Caſes exerted your Legiſlative Capacity, in declaring that a Crime which was not ſo before, or by inflicting particular or extraordinary Puniſhment on common and ordinary Crimes. Yet, on the other hand, till that is done, I hope I am at Liberty freely to repreſent the Conveniency, the Injuſtice, and the Imprudence of making ſuch a Declaration, or of paſſing ſuch a Law, in the Caſe now before you. If it ſhou'd become a Law, his

Lordſhip muſt diſpute it no longer, but ſubmit to it as juſt, whatever Hardſhips he may, in the Retirement of his own Heart, conceive introduced upon him, by it. But, Thanks be to God, this is yet no Law, and that I am at full Liberty to repreſent the Injuſtice and the Unreaſonableneſs of this Bill, and to ſay, this is not a proper Occaſion that needs or calls upon your Lordſhips to exert your Legiſlative Power.

I might here enlarge upon the Injuſtice of all Laws made *ex poſt facto*, and for one particular Caſe or Perſon, and no other; that they are againſt the Common Law, and the Common Right, which every one is entitled to, in the Place or Community where he lives; becauſe Laws, in their Nature, ought to be Rules for the general Order, and Good of Society; and natural Juſtice would ſurely in all ſuch Caſes ſtop the Precipitancy of your Lordſhips Reſolution, by this Queſtion, Againſt what Law hath he tranſgreſs'd? If he hath tranſgreſs'd any Publick known Law, he is undoubtedly ſubject to undergo the Pains or Penalties enacted by it, when the Proof is duly and fully made which that Law requires. But if there is no ſuch Law yet in being, or if there is no ſuch Proof as that Law requires to ſuppoſe him guilty, will your Lordſhips introduce a new Law, or a new Sort of Proof to make him ſo? If theſe Methods are to be taken, the moſt innocent Man is not ſafe, and the wiſeſt Man cannot judge what is an Offence, or in what Degree, what Proof is neceſſary for his Defence, nor how he is to be try'd. And in vain does the Legiſlature every Seſſion provide Laws, if a particular Law or a particular Proof is ſtill to be made for every particular Purpoſe, not only contrary to the Tenor of all the former; but ſuch, as is not to be a Rule or Law in any other future Caſe whatſoever.

Thus much I am ſure may be juſtly urged in any Place or Judicature in the World, againſt all ſuch Laws in general; but much more as we are *Engliſhmen*, as we have Laws, which my Lord *Bacon* calls wiſe and juſt, that give to God, that give to *Cæſar*, that give the Subject, that which belongeth to them. Not like thoſe of other Countries, impoſed upon the Subject at the Will of the Prince, before Probation or Tryal, whether they are fit and convenient for the Genius of the People; or the Production of one Man, or of one Parliament in any one Age, but the Wiſdom and Experience of many Generations.

And I am ſure one of the greateſt Excellencies of this Law, beyond that of other Nations, has been always eſteem'd the common and ordinary Method of Tryal. It has been always accounted the Birth-right of an *Engliſh* Subject to be try'd *per Pares*, according to the known Courſe of the Law.

And therefore, the better to ſhew the Difference, and to evince the Hardſhip of this extraordinary Proceeding, I ſhall a little conſider the Nature of the ordinary Tryal; and tho' I might do this in the Language of *Magna Charta*, and of many eminent ancient Writers of the Law, I rather chuſe my Lord Chief Juſtice *Hales*, that great and good Man, whoſe happy Moderation between the Prerogatives of the Crown, and the juſt Liberties of the Subject, can never be remember'd by Poſterity, without the deepeſt Honour. He ſays, it is the beſt Tryal in the World, and one of the firſt Principles upon which our Conſtitution is erected. Here a Man has a legal Exception to any one of his Tryers, if they have any Dependence upon either of the Parties, are prepoſſeſs'd or prejudiced before they hear the Evidence. All the Evidence is given openly, in the Preſence of the Judge, Jury, Counſel, and Parties; not in private, before a Commiſſioner or a Clerk, (as in Chancery, or by the Civil Law) where oftentimes a Witneſs delivers that, which he will be aſhamed to teſtify *ore tenus*, and wherein a crafty Clerk will oftentimes make a Witneſs ſpeak what he really never meant, by dreſſing up his Evidence in his own Terms, Phraſes, and Expreſſions. Or a Man may depoſe in Writing, what the Fear of being falſified, or perhaps a better Recollection wou'd not let him adhere to in open Court, where he has an Opportunity to correct, amend, or explain his Teſtimony.

Hiſtory of the Law, cap. 12.

Beſides this, (ſays that Learned Judge) a Jury muſt all agree in their Verdict, and are not to be concluded by a Majority; and therefore, tho' in ſome Caſes, the Law don't poſitively require two, nor one Witneſs, *viva voce*; yet the Credit of a Verdict is great, where twelve Men on their Oaths unanimouſly agree.

The Counſel on the other ſide may be apt to reply upon me, with the frequent Abuſes and Corruptions of Juries. My Lords, I do agree, that may happen to be the Caſe, or it may happen that one more knowing or over-bearing Man among them, may ſometimes govern all the reſt. But, if the ſame may happen, and often does, in every Society or Number of Men, and the beſt regulated Bodies in the World, ſurely that can never be a Reaſon to deprive a Man of his Common Right, and to lay aſide a moſt valuable Inſtitution.

I am afraid, My Lords, this little has been too much, upon a point that ſo little needs it; but the Love of ones Country, and its ancient legal Conſtitution is an honeſt Prejudice, which every one is apt to indulge: and the Advantage of this Priviledge, every one that hears me, (I doubt not,) is in his heart ſufficiently convinced of, and would boldly inſiſt on it as his Birthright in any caſe of his own, where his own Property, his Reputation, his Life, or his own Liberty was in the leaſt concerned.

It is urged by the Council for the Bill, and indeed by the Bill it ſelf, that this is an Extraordinary Caſe, and requires an Extraordinary Remedy, where the Offender has taken care, by ſubtle Contrivances, to keep out of the verge of the Law, and the reach of all ordinary Proceedings. But if ſuch a cruel artificial Suggeſtion be allow'd to be a good Reaſon to deprive a Man of the benefit of the Law, no mans Life or Liberty is ſafe. The ſame may be ſuggeſted of every Offender, and in every Offence: That a man endeavours to evade the puniſhment of the Law. The ſame may be ſaid with more juſtice of every one that pleads Not guilty, and inſiſts on his Tryal, that he endeavours to evade the Law, becauſe ſuch an Accuſation or ſuch an Indictment is found againſt him. And yet the moſt rigid Caſuiſt never yet maintained, but that any man (though he knew himſelf to be a moſt guilty Criminal) might plead Not guilty, and inſiſt on his Tryal.

But if this cruel Artifice is to prevail, and this ſhould be a reaſon to exert ſuch an extraordinary proceeding: Wo! be to all Men of Sence and Ingenuity. Nay, my Lords, if ſuch a notion is to take place, the Biſhop is in a much worſe condition than if *Neyno* were alive, or any other Witneſs would have depoſed, *viva voce* againſt him, all they would have had them. For even then, his Accuſation or Indictment muſt have been found upon the Oaths of Twelve Men at leaſt, he would have had his legal Tryal, and his Challenges. This I ſay upon a ſuppoſition that the Gentlemen of the other ſide may not allow his Lordſhip to be a Peer of the Realm: but if they do allow his right of Peerage before your Lordſhips Bar, and conſequently that he is intitled to a Tryal by his Peers, yet ſtill he would have had his legal Exceptions to the Teſtimony of the Witneſſes; there muſt have been Two poſitive Witneſſes to the ſame Overt Act; and his Accuſation muſt have been found by Twelve Men at leaſt upon their Oaths; and after all, if his Lordſhip ſhould have been found Guilty, he might move in arreſt of Judgment. All which benefits he is now utterly deprived of, by this method of proceeding.

We ſhall be told (I doubt not) by the Counſel for the Bill: that your Lordſhips ſit now in a Judicial Capacity; that you are Judges of the Fact, as well as of the Law. No man will doubt, but your Lordſhips have a Judicial Capacity, and have at all times moſt worthily exerciſed it, but yet I muſt beg leave to doubt, whether your Lordſhips are now properly acting in that Capacity or not? You have a Power, 'tis true, in this method of Proceeding to condemn this Reverend Prelate, if guilty; but not to ſave and acquit, if you are ever ſo well ſatisfied of his Innocency; and whether it be your Lordſhips pleaſure to paſs or reject this Bill, I deſire to know of the Learned Council, whether it may be pleaded in bar of a Proſecution in the Courts below, that he was *auterfoits acquit*, or *auterfoits convict* before your Lordſhips; or whether this Proceeding by Bill might be pleaded in Bar, even of an Impeachment for the very ſame Treaſons, or whether your Lordſhips Reſolution on this Bill (whatever it be,) would be any legal *Eſtopel* to any other Bill in a future Seſſion. No, my Lords, I humbly apprehend, it would not be a good Bar or a legal Plea, either at Common Law, or according to any rule or uſage of Parliaments; and therefore we hope your Lordſhips will not do that, which after all cannot be a compleat or a final Judgment, and by that means draw this Reverend Prelate into the danger of a double Trial. Which I am ſure is not only contrary to the rules of Law, but alſo of natural Juſtice. I have the more Countenance in ſaying this, not only from *Hambden's* Caſe, but from the known Caſe of *Fitzharris*, who pleaded this very matter to the Juriſdiction of the Court of *Kings Bench*, that he was Impeach'd for the ſame crime by the Commons of *England*; but it was the opinion of that Court, with the advice of all the Judges, that he might notwithſtanding be tried there; and in fact was tried and condemn'd by the Court of *Kings Bench*, though the Impeachment was ſtill depending before your Lordſhips Houſe.

But if your Lordſhips are reſolved to proceed in your *Legiſlative* Capacity, and my Lord Biſhop muſt after all be in danger of the ordinary method of Trial; yet

ſuffer me to ſay what has been done, in former times, by former Parliaments, on the like Bills; and how light ſoever other Authorities may ſeem, we hope your Lordſhips will have ſome regard to your own Uſage and Reſolutions.

There have been too many inſtances, I confeſs, my Lords; but thoſe, that can be in any degree juſtified, may be reduced to theſe few. They are ſuch as paſs'd againſt Perſons dead, or fled from Juſtice, and did not render themſelves by the time appointed; or they have paſs'd againſt ſuch as were in actual Rebellion, in direct oppoſition to all methods of Trial, and in defiance to all Courts of Juſtice; or againſt ſuch whoſe Treaſons were flagrant and undeniable, but their Perſons above the reach of inferior Courts and Commiſſions. Thoſe few Sacrifices to the heat and neceſſity of the times have been moſt of them revers'd with Infamy and Deteſtation, when Men were cool, and at liberty to hearken to the voice of Law and Reaſon, and began to conſider they had only prepared Shackles for themſelves. Thoſe few melancholy inſtances, procured without due Trial by an exceſs of Prerogative, of Perſons that have been forth coming, principally becauſe it was the Will of a Prince, are not to be mentioned without Horror and Deteſtation.

4. Inſt. 37. Such as thoſe, ſays my Lord *Coke*, *auferat oblivio ſi poteſt, ſinon, utcunque tegat ſilentium.* Let ſuch groſs breaches and violations of the ſacred and unalterable Rules of Juſtice be forgot, if it be poſſible; or at leaſt draw a Veil over them, and let them be buried in perpetual Silence.

But in all ſober regular times, a free Trial in the ordinary Courſe of Law has ſeldom been denied, even where the Facts have been ſo Notorious as (one would think) almoſt to need no Trial, and ſo Evident as to need no Proof: as the Regicides, except ſuch as fled from Juſtice, were admitted

Tryal in 8vo. to Trial, no leſs than Twenty nine before one Commiſſion of *Oyer*, and every one heard with patience in the ordinary Courſe. Even *Felton*, that

1 Ruſhw. ſtabb'd a primier Miniſter in the execution of a high Commiſſion, though he confeſs'd the Fact, both before the Council and Court of *Kings Bench*, and juſtified it as a publick Service to the Nation, in the moſt daring and impious manner, was brought to Trial, without ſuperſeding any of the ordinary methods and circumſtances of Juſtice. Indeed where ſome flagrant Crimes have been legally proved and determined in the Courts below, Parliaments have ſometimes thought fit to add to or heighten the degrees of Puniſhments. It was ſo reſolved in the Caſe of the Gunpowder Plotters, 5 *November*, that they were at firſt to be tried at Law, and then the Parliament, (if need be) to add a Confirmation to it. Nay, that Reſolution went further, it ſays they were not competent Judges of it before it was found in the Courts below.

I might mention the Opinion of Judge *Doddcridge*, the Mirror of Juſtice, Lord Chief Baron *Atkins*, &c. who ſays the Parliament is a Supream Court of *Oyer*, and that the proper ſubject of their *Oyer* is ſuch Offences for which right cannot otherwiſe be had, and to deal with Delinquents too high for the ordinary Courts. And, as I am before your Lordſhips Bar, I am very proper to mention the Reſolution of your Lordſhips Predeceſſors, in the Caſe of *Fitzharris*, who (as I before mention'd) was impeach'd by the Commons of High Treaſon: they refuſed to take him out of the hands of ordinary Juſtice, and directed him to be proceeded againſt according to the Courſe of the Common Law.

And what Opinion ſubſequent Parliaments have had, of my Lord *Strafford*'s Bill of Attainder, beſt appears from the words of the Act of Reverſal, by ordering all the Records and Proceedings relating to it to be cancell'd and deſtroyed, that no remains of ſo evil and unjuſt a Preſident might be viſible in after Ages, or brought into example to any ones prejudice. But even in that deteſtable inſtance, ſuch Informations and Evidence were not admitted, the Witneſſes were all examined *viva voce* upon Oath, and he was firſt adjudged Guilty, by way of Impeachment at the Bar of the Lords, before there was any Order for a Bill. The very ſame method was obſerved in the Caſe of Arch Biſhop *Laud*, and Articles fully proved againſt him, as they thought. If it had not been ſo, even that Houſe of Commons, as bad as they were, and as thirſty as they were after the Blood of thoſe Noble Perſons, probably would not have order'd thoſe Bills. But yet this latter Inſtance of Arch Biſhop *Laud* never had the Royal Aſſent, and 'tis well known in Hiſtory, what deſperate Meaſures were made uſe of to induce the Lords to paſs it, and at laſt I think there were but Seven of your Lordſhips whole Houſe, that were preſent when it was paſs'd. But if this Bill ſhould paſs, we muſt no longer blame and condemn thoſe Inſtances; for this will, in effect,

re-enact

re-enact them, and many others; which the Wiſdom of former Parliaments have revers'd with marks of Infamy and Deteſtation.

How much more is there to be ſaid of Sir *John Fenwick*'s Caſe? He had been Indicted upon the Evidence of two poſitive Witneſſes: There had been ſeveral preceeding Trials at Law, by which it manifeſtly appear'd that he was equally concern'd with thoſe that were found guilty. Sir *John Fenwick* had likewiſe withdrawn himſelf from Juſtice, and was retaken; (a Circumſtance always urged as a ſtrong Preſumption of Guilt). He had protracted his Trial by Offers of Diſcovery, the reaſon of which afterwards appeared to be, that one of the King's Witneſſes might withdraw himſelf beyond Sea; and although that Witneſs was gone, yet his Evidence not only remained in Writing ſigned, and upon Oath, but was atteſted and confirm'd by ſome of the Grand-Jury themſelves that found the Bill, and by others of the Petty-Jury, before whom that Witneſs had given the very ſame Evidence. There was a Proof likewiſe that he had attempted to corrupt the remaining Witneſs, as well as ſome of the Jury. Theſe were Circumſtances upon which that Caſe was founded; no Man can ſay, but there was a reaſonable Evidence, tho' not ſtrictly legal, one full and poſitive Witneſs, and many ſtrong undeniable Circumſtances; and yet the Oppoſition, which that had in both Houſes, was very great; whether the Reaſons that prevail'd for the paſſing of it, were ſufficient, becomes me not to enquire. Since it is ſtill a Law, I muſt preſume them juſt.

But is there any thing, my Lords, like that, in the Caſe now before your Lordſhips? Has there been any Attempt to withdraw from Juſtice, and yet that Honourable Committee have been pleaſed to obſerve, his Lordſhip had notice that he was to be apprehended ſome conſiderable time before? Has there been any preceeding Trial, in which my Lord Biſhop's Name was mention'd as an Agent, much leſs, (as this Bill ſuggeſts) a principal Manager and Director in the Conſpiracy? Or, in that one Trial which hath been, has any thing appeared to derive the leaſt Suſpicion of Guilt upon him? Can any one ſay, he has uſed any Methods or Artifices to avoid or protract his Trial in the ordinary Courſe of Law? Has he not on the contrary (and as one of the ſtrongeſt Proofs and Convictions of Innocency) ſought and petition'd to be tried? Yes, my Lords, he has applied in all Courts, and in all Places, in the moſt earneſt and legal manner to be brought to Trial? Has this Reverend Prelate uſed any indirect Meaſures to corrupt or withdraw a Witneſs? and yet Mr. *Kelly*, (who is the only Perſon ſuppos'd capable of teſtifying againſt him) 'tis well known, had his full Liberty, even after his Lordſhips Apprehenſion, but wou'd not hazard his Recognizance by one Days Non-appearance. No, my Lords, nothing of that kind has been attempted to be prov'd, nor ſo much as inſinuated in this Caſe, nor is there here before your Lordſhips any one poſitive Witneſs of any kind? Nor is there the Sanction of any one Oath here, or any where elſe in any one material Point againſt his Lordſhip? What need therefore, or what reaſon can there be for this Bill? Surely your Lordſhips will never pronounce a Judgment that ſhall affect any Man's Life, Liberty or Fortune without ſome Oath, and on Circumſtances ſo widely different in every reſpect from thoſe of Sir *John Fenwick*.

And if this Caſe bears no Proportion nor Similitude with that of Sir *John Fenwick*; I am ſure it has much leſs, or rather none at all, with any of thoſe before mention'd. For we hope, after ſo long and full a Diſcovery of the Conſpiracy, and thoſe many juſt Methods of Preparation againſt it, the Danger cannot now be ſo great or cogent, as to require ſo precipitate a Reſolution. His Perſon, your Lordſhips ſee, is ſafe and forth coming, and the Courts of Law in their uſual and open Courſe; and at this time filled with ſuch learned and reſolute Judges and Miniſters of Juſtice, that they are equal and able to deal with the moſt bold and daring Offender.

There can be leſs reaſon therefore, none at all we hope, for your Lordſhips at this time to exert ſuch an extraordinary Method of proceeding.

But there is this further Objection againſt proceeding by Bill, that it makes not only your Lordſhips pronounce Judgment againſt one of your own Members, and a very terrible one too; but it makes the King himſelf, without hearing one word of the Defence, in Perſon pronounce a Judgment upon his Subject, which his own gracious Temper muſt be averſe to; which the Common Law therefore has wiſely left to be pronounced by his Juſtices, even in

thoſe Courts, where he is always ſuppos'd to be preſent. But in this Inſtance, there is ſomething, which muſt be ſtill more ungrateful to him; in that it is to exclude a Branch of Prerogative which His Majeſty moſt delights in, and it muſt be ſome Surprize to every good Subject to find His Royal Judgment ſo highly miſtruſted.

There is another thing, which I perſwade myſelf, your Lordſhips will fully conſider; that if this Method of proceeding by Bill be encourag'd and grow familiar, it will put an end to one conſiderable Branch of Judicature, which your Lordſhips were heretofore ſo juſtly jealous of, as not to admit at any time the leaſt Competition. The Lower Houſe will hardly care to appear any more before your Lordſhips as Accuſers or Proſecutors, when they can ſo eaſily partake in your Judicial Capacity. And every ſuch Bill, (eſpecially againſt a Member of this Houſe) is a direct Infringement and Diminution of that high and valuable Privilege, and will open a Door to ſome other Miſchiefs to the Peerage; which I had much rather your Lordſhips wou'd ſuggeſt to yourſelves, than I expreſs. It has been always doubted without Doors, whether your Lordſhips could begin ſuch a Bill againſt a Commoner; but I think it may be more juſtly doubted whether the Lower-Houſe can begin ſuch a Bill againſt any one of your Lordſhips; and, if this Bill ſhould have no other Conſequence, it will eſtabliſh this ſo far, as to bear no Queſtion hereafter. My Lords, I need not ſay, how much more proper it would have been, for the Lower-Houſe to have left this Matter entire to your Lordſhips; becauſe it has been ſo often reſolv'd by your Lordſhips Predeceſſors, that the *Houſe of Commons* have no Power of Judicature or Coercion againſt any one, but in Matters concerning that Houſe. Whereas this is a Caſe of Peerage, the Puniſhment, and the Excluſion of a Member of this Houſe. There is an Inſtance on your Lordſhips Journals, where the Lord *Purbeck* voluntarily ſurrendred his Title and Dignity of Viſcount to the King by Fine, and yet your Lordſhips unanimouſly revers'd that Judgment, and declared, that no Place could judge of, or intemeddle with Dignities or Rights of Peerage, but your Lordſhips own Houſe.

And thoſe my Lords of that Reverend Bench will ſurely conſider what a fatal Blow this Bill will give to the Diſcipline and Polity of the Church of *England*. They have more than ordinary Reaſon to be jealous of encreaſing ſuch Preſidents, and of introducing Methods of depriving Biſhops and Deans, hardly known to former Ages. The ancient Canons have already preſcrib'd Methods of judging, cenſuring, and depoſing Biſhops, and the Caſes when and where thoſe Methods are fit to be exercis'd. I don't ſay the Parliament cannot do this or any thing elſe which they think proper; but the Metropolitan, Their Lordſhips know, is intruſted with this Power over his Suffragans, or a Provincial Synod. And 'tis plain the Law of *England* takes notice of no other Power, that can regularly deprive. For to mention but this Inſtance, If an Iſſue ſhould be join'd, whether a Biſhop be deprived or not, the Court, where ſuch Iſſue ſhould ariſe, could only write to the Arch-biſhop to certifie. And to prove this Aſſertion, I will not name Biſhop *Stillingfleet*, or any of thoſe great Eccleſiaſtical Authorities, (ſince poſſibly they may be excepted againſt, as Perſons who have too much Intereſt in the Caſe to be impartial) but it is ſo laid down by my Lord Chief Baron *Atkins* in his great Argument of Eccleſiaſtical Commiſſions, and by my Lord Chief Juſtice *Holt*, and the Court of *King's-Bench*, in the Caſe of Dr. *Watſon*, Biſhop of St. *Davids*.

Saw. Rep. 135.

All Precedents, my Lords, will increaſe; and the Scorn and Contempt of Libertines againſt your Lordſhip's ſacred Order is too great to drop, or to forget a Precedent ſo grateful and pleaſing to them as this will be. Every one knows the Deſtruction of the ſmaller Religious Houſes only gave way for that of the greater. A Time has been when their Lordſhip's Predeceſſors were all excluded and ſequeſtred, and it has been attempted, even ſince the Reſtoration, to take away Deans and Chapters. I am far from apprehending any ſuch thing at preſent, and I hope it will never enter into the Heart of any Man. But, my Lords, I confeſs I thought as little at this time of ſuch a Bill as is now before you, to deprive a Biſhop and Dean at once, not only of all his Dignities and Benefices, but from the Exerciſe of any part of his holy Office and Function: And I will ſay, that if this Bill ſhould paſs, and by any of their Lordſhip's Aſſent, ſuch a Deſign will be rendred more eaſy and familiar, and much more unpitied, by all Mankind.

Give

Give me Leave, my Lords, next to obſerve, with what Caution and Moderation other Parliaments have proceeded, even in thoſe Caſes where they have thought proper to exerciſe their legiſlative Capacity. I paſs over the Statute 7 *W.* c. 19. for Impriſonment of Sir *Thomas Coke*, *&c.* and many other ſuch Caſes, which were too great and intricate for the ordinary Courſe of Law, but yet too low and inconſiderable to enter into this Compariſon. But the Statute 8 *W.* c. 5. may be named, I am ſure, with that now before you, for the Impriſonment of *Counter*, *&c.* concern'd in the Aſſaſſination Plot, againſt all whom there was ſome poſitive Evidence upon Oath. Tho' the Zeal of that Parliament can never be queſtion'd from an Act ſo full of Gratitude, and in ſuch ſtrong Terms and Accents of Loyalty to the King, yet they did not at once, and at one ſingle Stroke, cut them off from the Land of the Living, and utterly deprive them of all the Neceſſaries of Life. The firſt Step that Parliament took, was to paſs an Act for the Detainment of them for the Space of one Year only, not to the Forfeiture and Deprivation of all they were worth, or to the Excluſion of his Majeſty's Mercy, but even to leave a diſcretionary Power of Bailing within that time, to any ſix of the Privy-Council, if they judged proper. Their further Obſtinacy and Impenitency occaſioning another Act, 9 *W.* 4. to detain them a Year longer, it was ſtill under the ſame Exception. At the end of that Term, another Act was made, impowering the King to detain during his Pleaſure, 10 *W.* 11. After theſe, two other Acts paſſed, impowering the late Queen and his preſent Majeſty to detain them. What the particular Reaſon of theſe Alterations were, I cannot take upon me to determine, becauſe the Acts themſelves are wholly ſilent; but, my Lords, *ſuch were the prudent and moderate Steps taken by former Parliaments even in that bold and wicked Conſpiracy.*

I may alſo juſtly take notice of the Prudence and Clemency of the laſt Parliament, when there was ſo loud and ſo general a Cry for Juſtice, and when the Neceſſity of the Time ſeemed to require a more ſpeedy and extraordinary Degree of Puniſhment than the Common Law was acquainted with; but with what Difficulty, with what ſlow Paces, and with how many tender Circumſtances that Bill paſs'd? Your Lordſhips will eaſily imagine that the Perſons I here ſpeak of are the late Directors of the *South-Sea* Company.

It would ill become me (my Lords) if I had Inclination, to inſult the Diſtreſſes, or to aggravate any of thoſe Gentlemen's Misfortunes; but the Service of the Reverend Prelate now under Conſideration, requires me juſt to mention what a State of Confuſion they had reduced the Kingdom to; how many Thouſands have felt, and ſtill feel the pernicious Effects of that Scheme. Tho' their Crimes had no particular Appellation, or determinate Puniſhment in our Law, yet the Civil, and the Laws of other Countries could have told us, That *Crimen Peculatus*, the Robbery of the Publick Money, was ſuch an infamous Tranſgreſſion, that the Puniſhment of it was Death, both in the Principal and Acceſſaries. How different and how mild was the Puniſhment inflicted by the late Parliament, in Compariſon of that, I need not mention; and every one knows, how tenderly and ſparingly that Law has ſince been executed upon them, and how much they ſtill enjoy of the Spoils and Plunder of the Nation. Dig. 48. 13. 1. 6. &c.

Let us not then follow every Precedent that has been, but the juſt and prudent Precedents of moderate Times, and of good and peaceable Reigns. Let us not be ambitious to ſurpaſs the Proceedings of violent and arbitrary Men, which we or our Poſterity may have Cauſe to repent of hereafter; but let us imitate ſuch only as are agreeable to the Law and Conſtitution, ſuch as are grounded upon true Reaſon, and the Principles of exact Juſtice.

Having thus ſpoken as to the Method of theſe Proceedings in general, and ſhown (in ſome meaſure, I hope) that they are contrary to the publick Wiſdom, contrary to the known Rules of Law, and the common Right of the Subject, I ſhall, with your Lordſhip's Favour, next examine the Foundations and Suggeſtions of this particular Bill. As for thoſe general Matters and Allegations with which it is introduced, and upon which the Counſel for the Bill have ſpent ſo much Time; there is no Neceſſity, as we conceive, to anſwer to. We are here before your Lordſhips only as Counſel for this Reverend

Prelate, one ſingle ſuppos'd Conſpirator; and it would ill become us in the leaſt to controvert, that there has been a Conſpiracy formed and carried on by ſome Perſons Abroad, and by others at home, after it has been ſo ſolemnly reſolved by both Houſes of Parliament. Nor can we deny, but that Mr. *Layer* has been Tryed, Convicted, and Attainted of it: But we are yet to ſeek, how thoſe Things have any Relation to the Caſe now before your Lordſhips; or how that unhappy Gentleman's Caſe comes to be connected and made Part of my Lord Biſhop's, as it is by this Bill. We may juſtly appeal to every one that heard or read that Tryal, whether this Reverend Prelate's Name is ſo much as mentioned in any one Line of it; whether there are any Grounds to think, from any of that Gentleman's Papers or Examinations, that his Lordſhip was privy to, or in the leaſt concerned or acquainted with his Perſon, or his Intentions: And I dare ſay, his Lordſhip is as much amazed at the Raſhneſs and Folly of his Schemes, as he deteſts the Wickedneſs of them. Notwithſtanding which, it is his Misfortune to be charged in this Bill as a principal Actor and Director in the framing and carrying on of thoſe very Schemes and Deſigns for which that Gentleman has been Convicted. And as to the Cyphers and Papers of *Plunket*, I am as much at a Loſs to imagine, upon what Grounds they ſhould be given in Evidence againſt the Biſhop, ſince 'tis not ſo much as ſuggeſted in the Bill, nor is there any thing throughout the Report or Appendix, that in the leaſt charges his Lordſhip with any Intercourſe or Correſpondence with him.

It is ſtrange, my Lords, that Perſons Thoughts and Intentions, ſo widely diſtant in all other Reſpects, ſhould yet center in ſuch unnatural Projects, and wild Undertakings, without ſome previous Diſcourſe, ſome Conſultations, or Acquaintance one with the other; and yet as ſtrange and unaccountable as it is, this Reverend Prelate is charged in the very ſame manner by this Bill, with conſulting and endeavouring to raiſe an Inſurrection, to procure a Foreign Force to invade the Kingdom, and Correſponding with the Pretender and Perſons employed by him, knowing them to be ſo employed. And if theſe Facts, my Lords, had been duly and legally proved, I ſhould have very little to ſay in his Defence, but humbly intreat the Mercy and Compaſſion of this Honourable Houſe; for they are Offences in themſelves ſo great, on the one hand not capable of Aggravation, nor on the other of Excuſe or Diminution, by any thing I can ſay. But if the Facts have not been proved in the Whole nor in Part, the bare Affirmation or Allegation of them, is only *Brutum fulmen*, and does his Lordſhip no more Harm, than any other innocent Man, whoſe Misfortune it is to fall under an unjuſt Accuſation. Or if thoſe Circumſtances which have been proved, are not criminal in themſelves, they ſhall not, we hope, by Inferences and Deductions, be heightned into Crimes, and the Number or Complication of them ſhall never make them exceed their Nature. And, my Lords, we hope, that notwithſtanding all that has been affirmed, alledged, or proved, this Reverend Prelate can ſtill ſay, not only in the Form of Law, but boldly and with a ſafe Conſcience, and upon an impartial and ſerious Recollection ſay, That he is Not Guilty of any one of the Charges contained in the Bill. That he is not conſcious to himſelf, of any one Treaſonable or Irreverent Expreſſion, or of any one Degree of Offence committed by him, with reſpect to any of thoſe Charges. He can ſtill ſay, That he has not acted in direct Violation of his Oaths and Obligations, nor to the Scandal of Religion or his Holy Function. I am ſure, my Lords, I ſhould not take upon me to ſay this for his Lordſhip, or any Man alive, unleſs I thought, we had a full and poſitive Anſwer to every thing that has been ſaid, unleſs I was verily perſwaded we had a ſufficient and a legal Proof to encounter all that has been offered on the other Side; or unleſs my Inſtructions told me, that many Things in the Courſe of their Evidence are utterly falſe and groundleſs; falſe, I ſay, as we ſhall prove (if my Inſtructions are true) by the fulleſt Proof, and the moſt ſatisfactory Evidence that is poſſible in the Caſe; by ſuch Arguments and Reaſonings, as we think are clear and undeniable, by ſome Witneſſes we never ſaw nor heard of before, conſequently the more credible and impartial; by others, whom I am ſure we had no Opportunity to lead or inſtruct; and all (as I am informed) glad, that it is conſiſtent with the Rules of your Lordſhips Houſe, to receive their Teſtimony upon Oath. In ſhort, every

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Circumſtance, every Part of the Evidence produced againſt us, your Lordſhips, in the End, we hope, will find, turn ſtrongly for us.

There is one thing which I take for granted from the Nature of the Evidence that has been offered, That it is admitted as fully by the Counſel for the Bill (as if they had ſaid ſo in expreſs Terms) that there is no legal Evidence againſt his Lordſhip in all they have offered; or elſe this extraordinary Method of proceeding, and this new ſort of Evidence had never been ſet up. Nay, I am ſure, it is a ſort of Force upon thoſe Learned Gentlemen, ſo well verſed in Methods and Notions of Law, to maintain ſo many groſs Paradoxes, which have not the leaſt Colour of legal, or even a reaſonable Evidence, and would never be allowed, they well know, in any Court of Law or Equity. And tho' your Lordſhips have been pleaſed to permit thoſe Papers and Letters to be read, your Lordſhips did not (as I apprehend) finally declare or determine them to be Evidence; but were willing to hear all Things, and afterwards judge how far it was reaſonable or fitting to admit them as Ingredients in your Lordſhips Judgments. And whatever Opinion your Lordſhips might be of on the two former Bills, as we are Strangers to them, ſo we hope we are not precluded from offering any thing further, why they ought not to be allowed in this Caſe. If it be your Lordſhips Pleaſure at laſt to adhere to that Opinion, or to reſolve the like in this Caſe, we muſt ſubmit.

If there is any thing certain in Law, or agreeable to Reaſon, it is this, That in all Criminal Charges, the Evidence ought to be clear and poſitive; and that the higher and more heinous the Nature of the Charge is, the more clear and undeniable the Evidence ought to be by which a Man is convicted. Now I beſeech your Lordſhips to conſider at one View (as far as it is poſſible in ſuch various and perplexed Facts) the Methods made uſe of to prove his Lordſhip guilty, and what they have offer'd to your Lordſhips under the Name of Evidence. Where Words have been capable, and ſometimes where they have not been capable, of two Senſes, an arbitrary and invidious Interpretation has been put upon them. Where Words have been plain and proper for the Occaſion, and which conſidered ſeparately by themſelves, it was impoſſible to put a criminal Gloſs upon, the Writer is ſuppoſed to have ſome myſterious Meaning or double Entendre, or elſe they are complicated and thrown together with thoſe which will infer ſome criminal Meaning. In other Letters the Names and Words relative to Men, are ſuppoſed to be uſed for thoſe of Women, and the proper and uſual Appellation of Women, for thoſe of Men; and becauſe one fictitious Name will not anſwer all they would have it, the Names are often ſhifted, one and the ſame Perſon is ſuppoſed to paſs under ſeven or eight different Denominations; and often two or three Names in the ſame Letter, within the Compaſs of two Lines one to the other, are urged to ſtand for the ſame Perſon. Some Letters which are writ of another, and ſpeaking in direct Terms of a third Perſon, they would have to mean the Writer himſelf, tho' as often without any Name, Date, Subſcription or Superſcription at all. Books of Accompt, Manuſcripts, and common Mercantile Terms, which ſeem proper for the Perſon and the Occaſion of the Correſpondence; and the Name of Stocks, which every one knows the true Meaning of, and carries all the Appearance of Reality, are very particular and exact in the current Prices at that time, by a new kind of Metaphor are to be taken in an ill Senſe. Others, which are only to be informed of the Diſtemper of a Friend, the Variations which happen in it, and the Opinion of Doctors upon it, by a ſtrange and arbitrary Conſtruction are applied to explain very different Purpoſes; and as if they were ſuſpicious even of their own Suſpicions, and diſtruſtful of theſe Explanations, they call in Aid ſeveral disjointed Fragments, Extracts, and Scraps of Papers, which no Man but themſelves can tell what to make of; and when there happen to be ſome Words which cannot be reconciled with ſuch a Conſtruction, or the Uſes which they would make of them, they are totally omitted, and we are told they are not material, or not yet decypher'd, or not legible in the Original, but your Lordſhips and the World muſt intend them to mean ſomething criminal.

My Lords, if ſuch foreign Suppoſitions, Gloſſes, and Intendments; ſuch unnatural Conſtructions, falſe Inferences and Innuendo's, are to be admitted

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as Evidence, and deſerve the Name of Proof, I muſt confeſs they have given you ſome. If the Whimſies and Conjectures of Decypherers, the Hearſays and Reports of third, fourth, and fifth Perſons are to take place in your judicial Proceedings, inſtead of that plain, honeſt, and poſitive Proof, which the Law requires; or if the Number of Facts and the Variety of Circumſtances could make them alter or exceed their Nature, I muſt confeſs, they have offered ſome Things worthy of your Lordſhips Conſideration.

But if it were your Lordſhips Pleaſure to conſtrue Things according to the moſt natural plain Senſe and Import of the Words, as others would have underſtood them, and in ſuch a Senſe as the Writer probably meant them, or in that juſt manner which your Lordſhips have hitherto done on criminal Proſecutions, no one can ſay they have ſhewn one degree of legal or reaſonable Evidence to prove any one Suggeſtion in the Bill. This I muſt humbly aſſert, and I think no one can diſprove my Aſſertion.

Thus far in general of the Proofs that have been offered; but I ſhall, under your Lordſhips Favour, ſpeak now more particularly to them, and ſhall be ſo far from abridging or ſliding over any thing that has been ſaid, that I am willing every thing thoſe learned Gentlemen for the Bill have been pleaſed to offer, or that Honourable Committee have obſerved in their Report, ſhould have its full Weight, and be put in the ſtrongeſt Light againſt us.

It has been obſerved that there were three ſeveral Methods and Times fixed for the Execution of this intended Conſpiracy.

The firſt was to have procured a regular Body of foreign Forces to invade the Kingdom at the time of the late Elections (which were from the middle of *March* to the middle of *April* 1722.)

But have they ſhew'd your Lordſhips any Evidence, or even one Paſſage in the Report of that Honourable Committee, that particularly charges his Lordſhip with being privy to any one of theſe three Deſigns thus generally and roundly affirmed? He is not charg'd with being privy to either of the three Memorials to the Regent for Forces. The only Paſſage that can be pretended to contain any Imputation of that kind is in the Letter ſign'd 1387 to *Jackſon*, which, they ſay, there is reaſon to believe was from my Lord Biſhop to the Pretender; but this we hope in the Courſe of our Evidence effectually to diſprove.

The ſecond Deſign was to have made an Attempt at the time it was believed his Majeſty would go abroad; but all that is inſinuated in relation to his Lordſhip is contained in two or three obſcure Paſſages relating to one *Jones*, in Letters ſaid to have paſſed between *Dillon*, or his Secretary and Mr. *Kelly*; which Paſſages being ſomething ambiguous, are interpreted in an ill Meaning, by Hearſays from *Neyno* and *Pancier*, and *Plunket*'s Cypher; but cannot, without the greateſt Abſurdity, be thought to relate to his Lordſhip.

Rep. *p.* 47,8. App. E. 43, 4. C. 51. Two of theſe Paſſages relate to Remittances of Money, which they inſinuate the Biſhop was to furniſh; but it amounts in the whole to no more than the bare Hearſay of one Man, and an arbitrary Interpretation of ſome Expreſſions in the Letters of two others (to either of which his Lordſhip has not in the leaſt been prov'd privy) and the Whole depends upon a Suppoſition that *Jones* here and elſewhere in the Correſpondence means him; which depends again upon another Suppoſition, that the Biſhop dictated thoſe three Letters of the 20th of *April*, one of which is ſigned *Jones*; a Suppoſition which we hope likewiſe to prove abſolutely falſe, and by that means ſhake the Foundation of the whole Charge.

Rep. *p.* 47. App. D. 17. The other Paſſage is in a Letter from *Dillon*'s Secretary to *Kelly*, about *Jones*'s fitting and providing himſelf with Saddles, which by the ſame Methods is explained to mean Soldiers and Regiments, which his Lordſhip is ſuppoſed to have undertaken to procure; and if the Words are to be taken in that Senſe, and applied to him, he muſt likewiſe be ſuppoſed to have undertaken to be at the head of them; which, conſidering his Lordſhip's Function, Age, and Infirmities, is ſo abſurd and ridiculous, that inſtead of ſpending more of your Lordſhips Time in anſwering of it, I ſhall only make uſe of it hereafter as one Inſtance (among many others) to ſhew, how much they are miſtaken in affirming, that wherever *Jones* is named, his Lordſhip is to be underſtood.

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The third and laſt Deſign, tho' I muſt confeſs the moſt Enormous, if it were true, becauſe part of it was the Seizure of his Majeſty's Perſon, was to have been put in Execution at the breaking up of the Camp. But, I am ſure, there is not one the leaſt Hint throughout all this voluminous Affair, that his Lordſhip was concern'd or privy to that.

And therefore 'tis ſurprizing to think, upon what Grounds his Lordſhip can be (as he is in the Preamble of the Bill) charg'd with having been deeply concern'd in forming and directing this Conſpiracy. Which, as your Lordſhips have heard, conſiſted of thoſe three ſeveral Deſigns. The Counſel, indeed, for the Bill have endeavour'd by divers Methods and Reaſonings, by ſome little Circumſtances, and ſeeming Probabilities, to charge upon his Lordſhip in general ſuch a Correſpondence: And they may all be reduc'd to theſe four Heads,

1*ſt*, Hearſays.

2*d*, The three Letters, ſaid to be dictated by his Lordſhip, and wrote by *Kelly* to Lord *Mar*, *Dillon*, and the Pretender.

3*d*, Two Letters, ſaid to be wrote to the Biſhop.

4*th*, The Co-incidences of Circumſtances, Times, and Names, in the intercepted Correſpondence, to induce a Belief of the before-mention'd Hearſays, and ſuppoſed Facts.

To all which I ſhall endeavour to give ſome Anſwers.

But before I enter upon theſe Particulars, I ſhall beg leave to obſerve to your Lordſhips, that if ſuch Evidence is to be countenanced, it will be in the Power of any two Men, the one in *England*, the other Beyond ſea, getting an Account of the Circumſtances and Motions of a third Perſon, by an artificial intercepted Correſpondence, to raiſe what Suſpicions of him they pleaſe; and yet he be all the while Innocent and Ignorant of what is doing. Whether that is the Caſe here, I ſhall afterwards ſubmit to your Lordſhips Judgments.

But it is very remarkable, that in all the intercepted Correſpondence to and fro, there are no Footſteps or Deſcriptions which any ways point out to or of whom they are written, but thoſe alone which are ſuppoſed to relate to his Lordſhip; and in them, as the Counſel obſerve, Things are ſaid and done in ſuch a Manner, and with ſuch particular Circumſtances, as lead directly to him, and him only. And this being ſo contrary to the Caution and Reſerve practiſed in all other Inſtances, carries in it ſome manifeſt Marks of Fraud and Contrivance.

This Remark I humbly apprehend to be the ſtronger, becauſe there has been no Proof of any particular Meetings or Conſultations with other Perſons towards carrying on theſe Deſigns. And how a Man can conſpire with himſelf, I know not; except that it is barely alledg'd he was a Member of the *Burford Club*, the Falſity of which Aſſertion that Honourable Committee themſelves ſeem ſo ſenſible of, and by that Indulgence and Enlargement which one of thoſe Noble Perſons (tho' ſaid to be the Chief of them) has ſince met with, is now ſo well underſtood, as to need no manner of Refutation.

I may alſo as juſtly obſerve, that there is no one Witneſs againſt this Reverend Prelate of any one Criminal Act or Expreſſion from the Time of his Majeſty's Acceſſion to the Throne, tho' one of the Counſel (as your Lordſhips may remember) was very particular about the Manner of his paſſing of the 10th of *June*, which the Coachman gave them an Account of for four Years together; and (though all his Papers were ſeiz'd) not one Letter, or Paper, under his own Hand, produced of a Criminal Nature, or pretended to have been ſeen or intercepted. Not any one Letter intercepted, that is pretended to have been written to him, much leſs any prov'd to have been receiv'd by him, the Matter of which appears to be Treaſonable, or any ways Criminal. My Lords, I muſt own a great Conſequence is drawn by that Honourable Committee, becauſe a great Quantity of Letters and Papers were found dated before the Year 1712. This very Objection was made in the Accuſation of his Lordſhip's Worthy Predeceſſor, and a ſlight Anſwer ſatisfied his Examinants; and the plain Reaſon is, that his Lordſhip at that Time had a ſettled Correſpondence with many eminent Men on Matters of Learning, which he eſteem'd ſo valuable as to preſerve; but ſince the finiſhing of thoſe Controverſies, he had leſs occaſion to write, and his Lordſhip's Merits having call'd him up to a more high and buſy Station, he had leſs Opportunity to write; and he that writes little, will receive but little. From that Year therefore (they juſtly obſerve) few of any conſequence were found, and even thoſe few, (if no

other than what are printed, and as yet produc'd) we beg leave to ſay, are of no conſequence at all to ſupport the Inference drawn from it.

The firſt, I think, is from a great Lady; but ſo general and uncertain, that it does by no means warrant the Concluſion drawn from it; for it does not ſo much as appear to have been a Letter, or what it was that was enclos'd. And I beſeech your Lordſhips, what more can be inferr'd from Captain *Halſted*'s Letter, the Contents of which is no more than that a Neighbour, as Captain *Halſted* was to the Biſhop, deſires Leave to Dine with his Lordſhip on a *Thurſday*, which was his Publick Day, in Company of 20 other People? I muſt confeſs they have laid a Streſs upon the Character of the Man in their Opening, but nothing more has been prov'd, than that he was in a Ship by ſome Name different from his own. Another Letter that was ſaid to be found among his Lordſhip's Papers, was that directed to *Dubois*. But this (my Lords) I ſhall beg Leave to reſerve for a more proper Occaſion.

D. 9.

I ſhall now conſider the Four ſeveral Charges againſt the Biſhop: And the Firſt ariſes from *Neyno* and *Pancier*'s Informations, all mere Hearſays; ſome from Living, and ſome from a dead Perſon; but poſitively and expreſly denied by the living Perſons, from whom ſuch Informations are ſuppoſed to have come.

All *Pancier*'s Informations ſay, relating to this Reverend Prelate, is, That one *Skeen* told him, that the Biſhop of *Rocheſter* had the principal Direction of the Conſpiracy, and that 200000 *l.* had been rais'd and put into his Management. This *Skeen*, it ſeems, is ſtill in Cuſtody, and your Lordſhips will hear how far he will ſupport this Charge.

Report 10. 35. Append. D. 1.

Tho' the very Accuſation itſelf, we beg leave to call Abſurd and Incredible; that ſuch a Sum of Money as 200000 *l.* could be rais'd and depoſited in one Man's Hands, and not yet traced up to ſome of the Contributors, or to the Hand where it was depoſited, eſpecially when it is charged upon a Perſon not uſed to deal in Merchandizes, or Remittances. Though the Counſel for the Bill have ſlid over this, yet being often repeated in the Report, as if there had been ſome Weight in it, I thought my ſelf oblig'd to take Notice of it, tho' it is ſo incredible, I confeſs, that it is ſcarce worth removing.

Of *Neyno*'s Informations, your Lordſhips may obſerve there are Four, but none of them ſworn to, nor ſigned; and it was expreſly reſolved, in Lord *Audley*'s Caſe, by all the Judges of *England*, that no Examination without Oath ought to be read, except of the Party himſelf that is tried. They are all either of a Date ſubſequent to his Lordſhip's Commitment, (and therefore till then thought inconſiderable, and not worth reducing into Writing,) or elſe they are of no Date at all. One of the Two without a Date, appears manifeſtly to have been taken after he was ſeiz'd, and brought up from *Deal* in *September*, which ſufficiently ſhews that juſt Diſtruſt there was at that Time of his Credit; that on the 27th of *September*, was on the Day before he drown'd himſelf; and both, when he is known to have been under the greateſt Terrors and Apprehenſions, in that he was not able to make good what appears by the Paper (mark'd E. 11. and found afterwards in his Pocket) to have been undertaken by him, or required of him. It is not ſaid, as to one of his Examinations, before whom it was taken: Another of them, and the only one they now think fit to make Uſe of, is an Extract only from three other Papers, and ſaid to contain the Subſtance of them; but the Papers themſelves, out of which it was extracted, do no where appear. And there are ſome Particulars in the Report of that Honourable Committee, which he is ſaid to have confeſs'd, which do not appear in any one of theſe Examinations, and are of ſuch a Nature as to affect the Credit of all he ſaid, and (if produc'd) would, we doubt not, in other Reſpects entirely blaſt the Credit of his Teſtimony. And, my Lords, if the Examination of a Man is thus to be taken to Pieces, the Antecedents and the Conſequents left cut, Treaſon (and what not) may be made and inferred from the moſt innocent Things and Expreſſions.

State Tryals.

E. 7.

E. 9.

E. 10.

Page 38.

But his Examination, even as they lie in the Appendix, are full of Inconſiſtencies and Abſurdities: Inconſiſtencies, I mean, not only with *Pancier*'s and the Depoſitions of other Perſons, but even with themſelves. For *Pancier* ſays, little paſs'd in Writing in the Conduct of the whole Affair: *Neyno* ſays, there were many Bundles of Letters that Mr. *Kelly* brought with him from *France*, and which he had ſeen him write at ſeveral Times. But yet they are much more inconſiſtent with themſelves; for inſtance, *Neyno* ſays, in his Examination, mark'd E. 7. that he had ſeen ſeveral Letters written by *Kelly*

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and ſent to him from *Paris*, and other Parts, but they never contain'd any thing material, and, yet in E. 8. he ſays, that he had ſeen ſeveral Cyphers of *Kelly*'s, and ſeen him make uſe of them; and that *Kelly* with great Freedom acknowledged they were for carrying on the Correſpondence with the Pretender's Agents. Whereas it is utterly incredible that a Man, who had really been ſo communicative in his Diſcourſe, and of his Cyphers, ſhould yet be ſo reſerv'd as to hide from him any thing material in his Letters. In the very ſame Examination, (he ſays) he was well acquainted with one *Watſon*, *i. e.* the late Earl Marſhal, and lay ſeveral Nights with him; but after all his Intimacy, at laſt it comes out, that he did not know really who he was. There are ſome other Inconſiſtencies, which have been already taken notice of by Sir *Conſtantine*, which I ſhall not repeat.

But, my Lords, if the Perſons and Credit of *Neyno* and *Pancier* were unexceptionable, yet what they ſay is only Hearſay, or mere Affirmation; and was ever that allow'd as Evidence in any material Point by any Law, or in any Court in the World? 'Tis expreſly reſolv'd in the Tryals of *Langhorn* and Lord *Ruſſel* to be no Evidence; and it is the firſt Time it ever receiv'd ſo much Countenance as to be read in Judicial Proceedings; and I dare ſay, there is no ſuch Practice in the Court of *Inquiſitions* abroad. Even common Fame and Reputation is but of little Weight in any Caſe that I know of. It may, my Lords, be a ſufficient Ground for an Officer of the Peace, in ſome few Caſes to Arreſt a Perſon, or for a Vigilant Miniſtry to make Enquiries, *i. e.* to Accuſe or Apprehend; but was never yet allow'd to be a Guide in Judicial Proceedings, or to Condemn any Man in any Criminal Caſe whatever. But even when the Commons (in the Caſe of the Duke of *Buckingham*, 1 *Car.* 1.) had declar'd, that common Fame was a good Ground of Enquiry, it was complain'd of, and the Commons afterwards receded from it, and proceeded upon the Examination of Witneſſes, and other Evidences, and in every Article of their Accuſation the particular Facts are expreſs'd. Much leſs will your Lordſhips allow the Hearſay of one ſingle Man, and only Extracts of that Hearſay, to be of any Weight; nay, to be of more Weight and Authority now he is dead, than if he were living; for if he were living, and could only depoſe by Hearſay, no one ſurely can ſay it would be admitted as Evidence; but ſince he is dead, and we have no Opportunity of Croſs-examining of him, why ought not his Lordſhip to have the Advantage of it? as was reſolv'd in the Caſe of the King againſt *Pain*. Or like the known Caſe of a Man dying in Execution, the Law is ſatisfied, and his Creditor is without Remedy. And it cannot be deny'd, but if one of our Witneſſes had died, and a Perſon had taken Minutes of what he could ſay, we ſhould not have had the Benefit of his Teſtimony; and where there is the ſame Reaſon, there ought in Juſtice to be the ſame Law and Conſtruction. And yet this is the Foundation and Support of the whole Charge againſt his Lordſhip. It is upon this Man's Examination ſingly that it is affirm'd, among other notorious Untruths, That the Pretender rely'd more upon Advices from the Biſhop, than from any other Perſons. But this, and whatever elſe is in them, with Submiſſion to your Lordſhips, amounts to no more than this, That *Neyno* was heard to ſay, what he heard *Kelly* ſay, what *Kelly* muſt have heard ſome other Perſons ſay, what they had heard the Pretender ſay, what neither they nor any one elſe ever had reaſon to ſay.

5 Mod. Rep. 161.

E. 8.

But, my Lords, there is ſtill ſomething more ſtrange in what is now attempted; for the Perſons of whom 'tis pretended they heard all this, and into whoſe Teſtimony it muſt all be reſolv'd, are now both living, and are ſo far from ſupporting what 'tis pretended they have heard from them, that they abſolutely deny and contradict every Word of it. One of them has already done it (if my Inſtructions are true) in the moſt ſolemn Manner at your Lordſhip's Bar, and the other is now ready to do the ſame. And *Neyno* was ſo conſcious to himſelf of the Falſity of what he had ſaid, that he loſt his Life to avoid the Puniſhment that might otherwiſe have fallen on him, (for his Flight, my Lords, can admit of no other Senſe or Conſtruction.) He could not apprehend himſelf in Danger, if what he had ſaid was true; but on the contrary, had reaſon to expect Rewards, if he could make out the Truth of his Information. Charity forbids me now, my Lords, to ſay any more of him, unleſs it be thought requiſite to prove the Falſity of his Information by his own free and voluntary Confeſſion, often repeated and confirm'd to Strangers

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and indifferent Perſons. And (if my Inſtructions are true) we have thoſe that will ſpeak moſt fully to it.

This is the firſt and the principal Part of their Proof; and if we take away this Foundation, all the mighty Superſtructure raiſed upon it muſt fall to the Ground, and all their corroborative Proofs and concurrent Circumſtances muſt come to nothing.

The Second Head of Accuſation againſt his Lordſhip, is, from three Letters ſuppos'd to be dictated by him of the 20th of *April*. The firſt to *Chivers*, interpreted *Dillon*, ſign'd by the Name of *Jones*; the ſecond, to *Muſgrave*, interpreted *Mar*, ſign'd *Illington*; a third to *Jackſon*, explain'd to mean the Pretender, ſign'd 1378, and ſometimes 'tis printed 1387; and therefore which of theſe two is right I cannot tell.

Before I ſpeak of the Letters themſelves, I ſhall mention one Word as to the manner of their Conveyance: They are ſaid to be enclos'd in a Packet to one *Gordon* of *Bologn*, in a Letter from *Kelly* himſelf, ſent by the Ordinary Poſt, and ſign'd with a Name, which they ſay, he moſt uſually ſign'd and went by. This is ſo improbable, that out of eight or ten Names, they are pleas'd to give him, that he could bethink himſelf at that Time of no other Name to ſign a Letter encloſing three of the utmoſt Conſequence, and is ſo inconſiſtent with that Caution and Subtlety all along inſinuated in this Correſpondence, that it almoſt needs no Confutation. But yet (if my Inſtructions are true) Mr. *Gordon*, to whom they are ſaid to have been directed, and the only indifferent Perſon in the Caſe, and can be under no ſort of Influence from hence, has atteſted upon his Oath, that there was no ſuch Letter, or Packet, ever came to his Hands.

And ſuppoſing theſe Letters were ſent, as they ſuppoſe, to the Perſons they ſuppoſe, and dictated by the Perſons they ſuppoſe; is there one Paſſage in them of ſuch a Criminal Import, as would be ſufficient to found an Indictment at Law? If there is not, they are not to be made Criminal by Arguments, Innuendoes, and Implications. The Caſe of Sir *Samuel Barnardiſton*, already mention'd by Sir *Conſtantine*, is expreſly in Print, and the Reaſon given for the Reverſal of that Judgment (as appears by your own Journals) is, becauſe the Information was grounded upon Letters, which in themſelves were not Criminal, but made ſo by Innuendoes, and forc'd Conſtructions. There is *Crosby*'s Caſe, to the ſame purpoſe, before the Court of *King's Bench*, in the Year 1695, who was indicted of Treaſon; and the Overt-Acts, laid in the Indictment, were for inviting the *French* King to Invade the Kingdom, and by ſending Letters and Inſtructions, how and where to make the Deſcent. Tho' the Court thought his Hand-writing was prov'd, and the Matter of the Papers of a very odd and ſuſpicious Nature, and the *French* King frequently mention'd in them, and the Indictment ſuppoſed them to be contriv'd for to invite him over; yet they held it not Treaſon.

And the chief Thing that gives any Ground of Suſpicion, in this Caſe, is, the Perſon to whom they are ſuppoſed to be directed; but I muſt ſubmit to your Lordſhips, that there has been no Proof, that either *Chivers* and *Muſgrave*, or *Jackſon*, are the very Perſons ſuppos'd, or that his Lordſhip was privy to the Writing of one, or the other of them; nor are they capable of Proof, as we hope immediately to make appear.

However, for the preſent, ſuppoſing as they have ſuppos'd, that *Chivers* and *Muſgrave* mean *Dillon* and *Mar*, and that ſuch Letters were wrote to them by his Lordſhip without any Diſguiſe, (unleſs the Matter of them, as I before ſaid, were plainly Criminal,) or unleſs your Lordſhips will ſuppoſe (as they ſuppoſe) ſomething Criminal contain'd in the Words not decypher'd, and unleſs it could have been prov'd, that the Perſons writing or dictating theſe Letters, know them to be the Pretenders Agents, and as ſuch addreſſed to them; I don't know (my Lords) how it could be conſtrued a Treaſonable, or a Criminal Correſpondence, either within the Letter or Intention of *Stat.* 14 *W.* *c.* 3. or any other Law whatſoever.

For though the late Lord *Mar* is an attainted Perſon, it can't be denied but he is ſtill in many Senſes a Subject of *England*, and is no more diveſted of his natural Allegiance than a baniſh'd, or an out-law'd Man; and tho' he appear'd in open Arms and Rebellion againſt his Majeſty, he was not thought ſo dreadful a Man, as to have a Correſpondence with him

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made Treaſon or Felony; but that was a peculiar Favour reſerved for this Reverend Prelate and his Friends. My Lords, I would not be underſtood to mean, as if the moſt innocent Correſpondence with a Perſon under ſuch Circumſtances, was prudent or convenient; but I think I may affirm, (even from the Clauſe of this Bill) it would not of itſelf have been Criminal. But (according to my Inſtructions) this Reverend Prelate was little known to that Lord, and never had any Friendſhip or Acquaintance with him while in *England*, and cannot be ſuppoſed to have contracted ſuch a Friendſhip, ſince he was abroad.

That *Dillon* was an Agent of the Pretender's, nothing appears antecedent to theſe Letters: Nor did *Mar* at that Time appear to be one of his Agents, when it was ſo well known (as that Honourable Committee obſerve) that he was at that Time ſubſiſted by a Penſion from the Court of *England*. This Penſion, indeed, is ſaid to be ſtopt laſt *Auguſt*; but the Letter to him of the 20th of *April* (by whomſoever wrote) was ſome Months before.

Indeed, if *Jackſon* had been proved to mean the Pretender, the writing to him would be High-Treaſon plainly within the Statute; but that the Pretender is not, and cannot be underſtood by that Name, we hope to make appear fully, before we have done, even from the Lights that Honourable Committee have afforded us.

I ſhall next conſider the Nature of the Proofs to induce your Lordſhips Belief, that theſe Letters were dictated by my Lord Biſhop: And the firſt they offer, is, Becauſe the Matter of them agrees with his Lordſhip's Circumſtances at that Time; *i. e.* his being ill of the Gout, and the approaching Death of his Lady; which (they ſay) is morally impoſſible ſhould ſuit ſo exactly to any one Man elſe. *Theſe two Circumſtances muſt be allowed to be agreeable to thoſe which his Lordſhip was then under: But one would think (my Lords) they are Circumſtances ſo melancholy in themſelves, that they might have been ſpared,* eſpecially conſidering the little Uſe or Advantage that can really be made of them: But theſe Circumſtances were no Secrets; every one that knew his Lordſhip, muſt likewiſe know them; and whoever wrote theſe Letters with a Deſign to have them intercepted, and imputed to him, (as we hope to ſhew the Cauſe really was) would certainly mention ſuch Matters or Circumſtances in them, as might be naturally thought to deſcribe him. Or if they were written without his Knowledge, (as they will be clearly proved to have been) it is no Wonder, if the Writer, who perſonated his Lordſhip, ſhould inſert all that was proper to faſten the Suſpicion he intended on him.

Another Proof that they were dictated by his Lordſhip, they ſay, is, from the Subſcription of the Names *Jones*, *Illington*, and the N° 1378. which are all affirmed to denote his Lordſhip; and the Reaſon why that Number belongs to him, is, becauſe the Decypherer has found that Number to denote the proper Name or Title of a Perſon beginning with the Letter *R*. If this is his real Opinion, muſt that needs be the Biſhop? Is there no body elſe whoſe Name or Title begins with the ſame Letter?

But, with Submiſſion to your Lordſhips, it ſeems impoſſible to affirm even thus much with any Degree of Certainty, and muſt be only Matter of mere Conjecture. Dr. *Wallis*, who is allow'd to be the Father of the Science, (ſuch as it is) and was the Wonder and Envy of all Foreigners, directly owns, that the Whole was built upon Conjectures; and he that had the beſt *Gueſs*, was the beſt *Artiſt*. Such, my Lord, is the Science of Decyphering. And from ſuch uncertain and conjectural Premiſſes, what certain Concluſion can poſſibly be drawn? And 'tis plain, Mr. *Willes* is not ſo infallible as he pretends to be, by that Number of Paſſages not yet decypher'd.

When we took our Objection firſt againſt the Nature of this new ſort of Evidence, the Counſel for the Bill were pleaſed to cite a Statute in Q. *Eliz.* Time, wherein they ſaid, the Word *Cypher* is mentioned. I have ſince look'd for that Statute, but could find nothing about it, and, perhaps, may be miſtaken in the Statute which they mean. But, my Lords, I am ſure they did not mention any particular Tryal where it was ever heard of or allow'd as Evidence. I rather believe, that, according to the Notions of thoſe Times, (for ſoon after, the Statute was made againſt *Witches*) if any Decypherers had appeared then as Evidence, they might have been in more Danger than the Criminal.

But if there are any certain Rules, or any reaſonable Methods in Decyphering, I am ſure 'tis highly improbable, that Perſons ſo Cunning and Wary, as theſe are all along repreſented to be, ſhould be guilty of ſuch a fatal Overſight, as juſt

juſt to ſign with ſuch Numbers, that all, it ſeems, who underſtand Cyphers, muſt neceſſarily know, intended for the Initial Letter of their Names. It would, my Lords, in my humble Opinion, have been more conſiſtent with that Care and Caution, to have made thoſe Numbers ſtand for quite contrary Letters, and thoſe Letters to have been expreſs'd by quite contrary Numbers; and there is no doubt, but they might have made any others ſignify the ſame thing. However, ſince the Decypherer has not ſhew'd us by what Methods he has arrived at this Concluſion, 'tis impoſſible for us, by any poſitive or direct Evidence, to confute it: But 'tis ſufficient for us to deny on the one Hand, what he has on the other Hand affirm'd, without telling us the Reaſons of it.

That the Names of *Jones* and *Illington* belong to his Lordſhip, is endeavoured to be proved by ſome Paſſages in ſubſequent Letters, and by refining on the Matter of them, which they think is applicable to his Lordſhip only.

I have already mentioned Two of thoſe Inſtances, *viz.* his Lordſhip's own Indiſpoſition, and the Death of his Lady, which are likewiſe mentioned in the ſubſequent Letters, in order to faſten the Imputation intended, yet deeper on him. There is a Third, which relates to the Preſent of a Dog.

That ſuch a Dog was ſent does indeed appear; but that his Lordſhip had received it, or ſaw it, or had any Letter or Meſſage about it, has not been proved, and he poſitively denies it; and to whom, or from whom, it really was ſent, Mr. *Kelly* can beſt determine, and his Lordſhip muſt refer himſelf to what he has always affirmed in his Examination; and (if I am rightly inform'd) ſince reaffirm'd at your Lordſhips Bar, that he gave it to Mrs. *Barnes*, and deſigned it for her from the firſt, and for her only.

My Lords, I ſhould apologize for taking Notice of ſuch minute and low Circumſtances; but it is the Evidence and the Nature of the Proof made uſe of againſt us. I ſhould rather have expected, that ingenious Gentleman (the Decypherer) would have ſhewn, by ſome Rules of his Art, that the whole Story of the Dog had been a Fable or Fiction, and explain'd it to ſomething that was reaſonable and probable, which I am ſure this is not, to ſuppoſe (as the Letters read to your Lordſhips do ſuppoſe) *Muſgrave*, i. e. *Mar*, in one Part of the World, General *Dillon* in another, widely diſtant one from the other, and a learned Prelate, to be in ſuch Tribulation and Concern for a little Dog; which no way ſuits the Characters of any one of the Perſons to whom it is applied; much leſs the Circumſtances of this Learned Prelate, who had at that time a much nearer Concern upon him, from the Death of his Wife, and was himſelf in ſuch great Diſorder and Weakneſs of Body. The ſpeaking therefore of this Preſent, backwards and forwards, with ſuch particular Circumſtances, and the Report of it ſo induſtriouſly ſpread many Months before my Lord Biſhop's Apprehenſion, (as ſome of your Lordſhips cannot but remember) is abſurd and ridiculous upon all other Suppoſitions, but upon the Deſign of faſtning ſomething on his Lordſhip, the Point all along in their View.

Rep. 40. *App. E* 42.

If the Writer of theſe Letters had been really and truly informed of his Lordſhip's Circumſtances, he might, perhaps, more properly have affirm'd it of his Lady; which 'tis plain, the Writer was not, becauſe he ſpeaks of her as Living 11 Days after ſhe was Dead. And how ignorant of them the Writer really was, appears by another Paſſage in that very Letter; where he ſays, "Mr. *Jones* is come "to Town for a Day only, *May* 7th." Whereas his Lordſhip had been in Town Two Days, and ſtaid Three more, as appears even by their own Evidence, *Lawſon* and *Wood*.

App. D. 47. 8.

By theſe your Lordſhips may ſee, How many forced Inferences and Conſtructions, and what a Train of Abſurdities and Suppoſitions are neceſſary to ſupport one poor, and (if true) yet inconſiderable Aſſertion, when once we depart from the ſure and known Rules of Law!

A Third Way of Proving theſe Letters to be the Biſhop's, is, From the Hand-Writing, which is ſuppoſed to be *Kelly*'s, and he is ſuppoſed to have been his Lordſhip's Secretary in theſe Matters: Both which Suppoſitions are deſtitute of any proper or ſatisfactory Proof.

The Firſt is attempted to be ſupported by the Teſtimony of the Clerks of the Poſt-Office. But before I ſpeak to the Teſtimony which they have given, I muſt beg Leave to offer one Word as to their Manner of Obtaining of it; and ſhall endeavour not to tranſgreſs your Lordſhips late Reſolution: And when I mention any Words of that Act of Parliament, it is only to ſhew the Cautious Meaſures the Legiſlature took even in imparting this Power to them, and the juſt Apprehen-

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ſions they had of the Abuſes and ill Conſequences that might attend it. My Lords, I am ſo far from Endeavouring to bring them in Danger of a Penalty, as the Counſel were pleaſed to object, that I am willing to ſuppoſe thoſe Clerks had proper Warrants at that Time, and for that Particular Opening and Detaining. But that is all which the Act gives, and the Words of it are fully ſatisfied by ſuch a Conſtruction, without going farther, and extending the Words of the Act to that which was not in the leaſt within the Intention or Purview of it. It don't appear to me, my Lords, I confeſs, how they are impower'd to take Copies (for all ſuch Acts which are in Reſtraint of Trade and Commerce, are to be ſtrictly and literally conſtrued): But I am utterly at a Loſs to know, from what Words of the Act it can be inferr'd, that ſuch Copies ſhall be received as Evidence in Courts of Judicature; and not only againſt the Writer himſelf, but againſt other Perſons too.

A Private Act of Parliament (tho' printed in *Raſtal* and other Authentick Collections of Statutes) has been diſallow'd, when it has not been examined with the Record. But, my Lords, I don't know, that a Copy of any Thing was ever allow'd as Evidence, but what was made by a proper Sworn Officer, known in Law, and where every one may have Acceſs to it; and therefore, if falſe, may be diſproved by the other Side. But is there the ſame Reaſon here? My Lords, can the Party ever have an Opportunity to diſprove it, if falſely copied, when the Original is ſent forward? Or, if it were ſtill in their Poſſeſſion, have we any Power to procure a Sight of the Original? or to have a Copy of that Copy? And therefore, we hope your Lordſhips will not regard that Part of the Evidence, if it were Material. But to conſider alſo, my Lords, what it is they have depoſed of theſe Copies; That the Originals were written in the ſame Hand with ſome Papers ſhewed them; and which, they were told, were Mr. *Kelly's* Hand-writing. Your Lordſhips, I doubt not, obſerve the Time when they depoſed this firſt, *viz.* the 24th of *Auguſt*, and afterwards the 1ſt of *January* laſt; *i.e.* The firſt of theſe Depoſitions 4 Months, the other 8 Months, after they had ſeen the Originals of the 20th of *April*: For, they were forwarded by the Poſt, and the Clerks only took Copies of them, and did not detain any one Original for a Specimen 'till their firſt Depoſition; and ſurely that was a little of the lateſt: So that it reſts ſingly upon the Memory of the Clerks for 4 or 8 Months. I think St. *James* ſays, *That a Man may even behold his own Face in a Glaſs; but he is no ſooner gone, but he ſtraitway forgetteth what manner of Man he was:* And it is much more impoſſible for any one ſo exactly and nicely to remember all the little Strokes and Daſhes of the Pen, by which the Sameneſs or Diverſity of Hands can only be made out.

And all *Malone* ſwears, is, That he believes it to be *Kelly's* Hand-writing; and 'tis remarkable, That his Depoſition is but in *January* laſt, and he left Mrs. *Barnes's* Service in *May*, ſo that he could not have ſeen him write ſince that Time. He don't ſay, he ever read any of his Writing, or at moſt, the Superſcription of a Letter: He might, perhaps, ſee him write at ſome Diſtance, as he came in and out of the Room; but ſurely, that cannot be ſufficient to form a Judgment of a Man's Hand-writing; and I am ſure the Improbability is much greater after 9 Months Time. And *Hutchins* the Meſſenger, from ſeeing the Superſcription of a Letter to the Secretary of State, has likewiſe, I think, taken upon him to ſwear the ſame thing.

But ſuppoſing theſe Perſons had ſeen Mr. *Kelly* write frequently, and had, within a more reaſonable Diſtance, ſwore it to be like his Hand, will any one ſay, That it is a ſufficient, or even a reaſonable Proof, in any Criminal Caſe? But becauſe Mr. *Kelly* is all along affirmed to have acted in theſe Matters as his Lordſhip's Secretary, I muſt beg your Lordſhips Patience to conſider, How far that Doctrine of Similitude of Hands has prevailed.

Coll. *Sidney's* Caſe was the firſt wherein it was ever admitted as a Proof in a Criminal Caſe; but that Judgment was afterwards Reverſed by Parliament, as manifeſtly unjuſt. In Lady *Car's* Caſe, *Sid. Rep.* 419. which was only an Information of Perjury, yet a Letter under her own Hand was poſitively denied to be Evidence; tho' a Witneſs ſwore he believed it to be hers. I muſt own, my Lords, this Caſe, at the late Tryal of Mr. *Layer*, was not only denied to be Law, but all Men defy'd to make Common Senſe of it: But, with the utmoſt Deference to that Learned Gentleman that ſaid ſo, I beg Leave to mention the Words of Sir *J. Hawles* upon that Caſe, who was of a different Opinion: "At that Time, "ſays he, when the Caſe of Lady *Car* was adjudged, beſides *Twiſden* and *Key-*"*ling*, Two very eminent Judges, there ſate in that Court Sir *Wad. Windham*, "whom

" whom all will own to have been the Second beſt Judge who ſate in *Weſtminſter-*
" *Hall* ſince the Reſtoration; and if it is not Evidence in Miſdemeanor, much leſs,
" ſays he, in Treaſon." Which Inference, beſides the Reaſon of the Thing itſelf, is ſupported by the Authority of Lord *Coke*.

In my Lord *Preſton*'s Caſe, his Hand-writing was proved by Three Witneſſes, that had belonged to him while in the Secretary's Office, and muſt neceſſarily have ſeen him write a thouſand Times: But that was not all; for thoſe Papers were ſeized by him, ſealed with his own Seal, as he was going to *France* in the Heat of War, contrary to an Act of Parliament, which at that Time made it Treaſon.

In the Tryal of the Seven Biſhops, the ſame Queſtion aroſe, Whether Similitude of Hands was a Proof in a Criminal Matter? and it was not admitted.

In *Francia*'s Tryal, before all the Judges at the *Old Baily*, it is poſitively laid down by the Chief Baron and not contradicted by any others, That it was no Proof or Evidence of itſelf; and the Letter in that Caſe would not have been admitted, but that it was found by his Bedſide, and a Copy of the very ſame Letter enter'd in his Pocket-Book, which he had owned and explained to ſome Lords of the Council.

In *Crosby*'s Caſe, the Hand-writing was ſworn to by Three poſitive Witneſſes, and owned in one of the Papers by the Priſoner himſelf; yet Lord Chief Juſtice *Holt* and the Court held it no Evidence, *Becauſe one Hand*, ſays he, *may be like another, and Preſumptions ſhall never take Place in Treaſons.*

In the late Caſe of Mr. *Layer*, 'tis well known, that beſides the Proof of his own Hand-writing, the Treaſonable Papers were deliver'd, by his own Hand, to the Witneſs; and 'twas upon that Ground only, they were permitted to be read againſt him. Beſides this, he had ſaid *that* before the Lords of the Council, which the Court thought amounted to a full Acknowledgment *that it was his* Writing. But even all this, my Lords, *was made uſe of againſt him, but as* concurrent Evidence, becauſe there were *Two poſitive* Witneſſes, *vivâ voce*, againſt him as to the other Overt-Acts.

I will mention to your Lordſhips ſome Foreign concurrent Authorities upon this Point, to ſhew, that the Reaſon and Equity of this Doctrine has been Uniform and Univerſal, That Similitude or Compariſon of Hands is not a ſufficient Proof of itſelf: There is a famous Caſe of *Jean Millard*, in a Book called, *Le Journal du Palais.* He had lived 40 Years from his Wife, and then returned and reclaimed her, after ſhe was marry'd to another. One of the Methods made Uſe of to prove him to be the ſame Perſon, was, The Hand-writing of Letters that had formerly paſſed between them: Which occaſion'd this Queſtion before all the famous Judicatures of *France*, " Whether the Teſtimony of ſkilful No-
" taries, who fully depoſed of the Similitude of the Hands, was a ſufficient Proof in
" this Caſe?" and it was univerſally denied. And yet this, my Lords, was a Caſe highly favour'd in all Laws; but more highly in thoſe Places, where Marriage is reputed as a Sacrament, and in Favour of which they will often admit even the Party's own Oath.

Codex Fabrianus, *Lib.* 4. *Tit.* 14. *Def.* 71. ſays, " A Proof by Compariſon
" of Hands, is a very dangerous Proof: *Idque in cauſis civilibus duntaxat, ſed in*
" *criminalibus, in quibus periculum majus verſatur, aut capitis, aut exiſtimationis,*
" *non item.*

Voet, an eminent Modern Civilian, *Lib.* 22. *Tom.* 4. *Sect.* 11. to the very ſame Purpoſe. And ſo does *Cujacius* in his Commentary on the Novels. 73.
" The *Romans*, ſays he, never allow'd it, but when no other Proof could be had.
" And in latter Times, when Forgeries became more frequent, they would not
" allow of it at all, unleſs the Writing had been acknowledged by the Party, or
" proved by Two Witneſſes who ſaw him write it."

And then it was neceſſary to bring both into Court, that the Judges themſelves might make the Compariſon, and not leave the Witneſſes to be the only Judges of it.

But it was never known, and I may defy all the Writers of Law, to ſhew me One Inſtance, that any Evidence of the Similitude of Hands (which can only be made out by Compariſon) was admitted, but where the Papers pretended to be written in the ſame Hand, were produced and compared: Which is ſo far from being the preſent Caſe, that even the atteſting Clerks, who are the only Witneſſes in the Caſe, never had an Opportunity of comparing the Original Letter ſtopt in *Auguſt* laſt, with any one of the Three Original Letters dated *April* 20, or with any of the intermediate Letters, which they affirm to have been written in the ſame Hand.

And

And if it be conſider'd, how much more difficult it is to diſtinguiſh the Hand of one writing in Figures (which ſtand ſingle one from another) from the Hand of one writing in Words at length (which are variouſly Connected and Combined) your Lordſhips will never give them the leaſt Degree of Credit.

But at once to put an End to this Evidence (if my Inſtructions are true), it has already appeared to your Lordſhips, upon Mr. *Kelly*'s Bill, That the only Original Letter of the Twentieth of *Auguſt*, ſtopt as a Sample at the Poſt Office, and the only Ground of affirming theſe Three to have been his, was not his Hand-writing; and, if need be, we have the ſame and ſtronger Evidence to produce. Upon the Whole therefore, I think I may affirm, That there is no legal or reaſonable Grounds to infer thoſe Letters to have been wrote by *Kelly*.

And ſurely, my Lords, it was incumbent on them to prove, as well as to affirm, that they were wrote by his Lordſhip's Directions, before they can affect him; Even tho' the Writer (whoever he was) had preſumed to have ſigned them with his Lordſhip's own Name and proper Appellation. I beſeech your Lordſhips, how does it in the leaſt appear, that Mr. *Kelly*, (or Mr. *Cart*, as is afterwards upon no better Grounds ſuggeſted) was employ'd by his Lordſhip to carry on that Correſpondence? It has, I confeſs, been frequently ſaid at your Lordſhips Bar, as well as by that Honourable Committee, but, like other Charges, without any Shadow of Proof; unleſs it be an obſcure Paſſage in a Letter of *Chitwell* from abroad, to one *Williams* here, D. 27. which ſays, *They had a Story in* France *of* Weſton's *Clerk being laid up for Debt:* Which, as I ſhall afterwards ſhew, could not poſſibly mean his Lordſhip. There is another Paſſage alſo in the Letter to *Dubois*, from whence the ſame Inference is made. What unknown Perſon that *Dubois* is, don't appear, or whether it is a real or fictitious Name; for all their Liſts and Cyphers afford nothing like it. The Committee are pleaſed to ſuppoſe it a Letter to the Biſhop, and received by him from abroad, and from thence infer, he uſed to receive Letters directed to him by fictitious Names. The Counſel for the Bill ſuppoſe it a Letter from *himſelf* to *himſelf*, becauſe the Hand-writing, they ſay, (or rather the Letter *e*) is ſomething like his Lordſhip's. It is not Signed by any one, and dated only the Sixteenth of *December* without any Year; and tho' that Honourable Committee are pleaſed to affix, in their Obſervations on it, 1721. becauſe *Johnſon*, they ſay, was about that Time at *Paris*, yet for what appears from the Letter itſelf, it might be written before his Majeſty's Acceſſion, or before the ſeveral Acts of Grace that have been; and if it had any Criminal Meaning, 'tis improbable his Lordſhip would have mention'd the Hand of Conveyance at length; and much more improbable, that he ſhould have deſtroyed all his other Letters (as the Committee are pleaſed to inſinuate) and to preſerve this only, which is of no Conſequence, but to furniſh Evidence againſt himſelf, and to explain the Thing moſt wanted. Another Proof that it is his Letter, is from a broken Seal, which, they ſay, is made by the ſame Seal as that ſeized on his Servant at the *Tower*. But conſider, my Lords, how many *Similitudes* we are at laſt come to in this one Attempt, *Similitude of Hands*, *Similitude of Figures*, *Similitude of Characters*, and *Similitude of Seals!*

That Similitude of Hand-writing is no Proof, I have ſhewn by a Variety of the beſt Authorities; much leſs, the Similitude of one Letter in the Alphabet; that is, I dare ſay, a Conceit perfectly new. And 'tis well known, Artiſts are capable of counterfeiting any Man's Hand or Seal in ſuch a Manner, that even the Perſon whoſe Hand or Seal it is, ſhall not be able to diſtinguiſh it from his own: And your Lordſhips Yeſterday ſaw an ample Specimen of it.

It is upon theſe Grounds, my Lords, that *Kelly* has been affirmed to have been his Lordſhip's Secretary in theſe Matters; but there is not the leaſt Charge or Pretence of his having writ any other Letters of any kind for the Biſhop, but theſe Three only, and not one throughout the whole Correſpondence charg'd to have been written by *Cart*, (tho' he is in general charged as another Manager of this Correſpondence). This, my Lords, we muſt inſiſt, ought to have had the fulleſt Proof, and the moſt undeniable Evidence: For it is the Gift of the Offence, 'tis the Foundation of the Statute 14 *W.* c. 3 and 'tis the particular Suggeſtion of this Bill. 'Tis poſſible ſome ſuch Letter might be wrote by *Kelly* or *Cart* to the Perſons they are addreſs'd to, without the Biſhop's Privity or Direction; 'tis not ſo uncommon a thing to pretend Acquaintance with Perſons of Diſtinction, or to make uſe of their Name and Authority, to give themſelves a greater Degree of Credit with their Correſpondents.

If this may be ſo, and ought now to be preſumed ſo, ſince no Man has proved it otherwiſe; then no Man ſurely ought to ſuffer by the Act of another, or to be puniſhed for another Man's Fault.

I be-

I believe no one will think it any Reflection to hear many of your Lordſhips Names in theſe Cyphers, and afterwards to find a frequent Mention of them in the Correſpondence; or to find His Majeſty's own Name in *Plunket*'s Cypher, under the Diſguiſe of *Hawkesbey*, and, Page 62. of the *Report*, Compliments from the Pretender and his Wife to one *Hawkesby*. No Man, I ſay, will apply theſe or many other Names of Perſons of Honour mentioned in them, to the Perſons themſelves, or imagine thoſe Letters were really wrote by their Privity or Conſent. By the ſame Rule of Juſtice, and by a Parity of Reaſon, my Lord Biſhop's Name may be preſum'd to have been made Uſe of, without his Privity or Conſent; and if there is any certain Rule or Poſition in Law, it is this, That all Preſumption ought to be in Favour of Innocency.

And to ſhew the little Intimacy there was between his Lordſhip and Mr. *Kelly*, (if *Rig* means his Lordſhip, as they ſuppoſe, or that Letter *E.* 64. was from *Kelly*, as they alſo ſuppoſe) it will be ſufficient to remind your Lordſhips of one part of it, where the Writer ſays, — "That *Rig* and one *Skin* had been together; but the "Reſult of their Meeting he knew nothing of. *Rig* has fixed his Suſpicion ſome-"where, tho' I cannot find out the Place; but you will hear it from *Skin*, to whom, "it's probable, he may have communicated his Sentiments that way." That is, my Lords, if I underſtand the Meaning of thoſe Words, that *Kelly*, the ſuppoſed Secretary on all theſe Occaſions, knew nothing of the Matters, or at leaſt much leſs than *Skin*, whom *Kelly* had but juſt before introduced into *Rig*'s Acquaintance.

There is another Letter which has likewiſe been read, *E.* 47. (if it is to be underſtood to be Mr. *Kelly*'s, as they ſuppoſe, and *Rig* is to mean his Lordſhip; tho' we are far from admitting the one or the other) which we deſire to make uſe of, and amounts to a full and direct Confeſſion, that the Writer (whoever he is) had nothing in his Power or Knowledge to Charge him with. I have the more Countenance, my Lords, to repeat the Words of this Letter, becauſe that Honourable Committee have let it paſs without Exception, *Fol.* 59. of the *Report*: Wherein the Writer vows, "He never heard of the Cant Names of *Jones* and *Illington*, or who "was meant by them; That ſome Perſons in whoſe Power it was to do for him, had "ſhewed no Concern at all for his Misfortunes; That it was well he had no Secrets "to reveal, ſince ſuch Uſage might provoke a paſſionate Man." And all the World is ſince convinced he had not, ſince no Perſon ſeemed to be apprehenſive that he could do them any Miſchief. My Lords, I ſay, If this Letter is to be underſtood as from that Gentleman, we think we are intitled to have the Benefit of his Open and Candid Declaration.

But however, my Lords, if we ſhould not be allowed to make this Uſe of it, yet (if my Inſtructions are true) Mr. *Kelly* fully aſſerted this himſelf at your Lordſhips Bar; and even without it, we ſhall be able to make appear moſt plainly in the Courſe of our Evidence, that *Kelly* did not, and could not write theſe Three Letters from his Lordſhip's Mouth, or by his Lordſhip's Direction.

The Date of all Three is 20 *April*; when this Reverend Prelate (as has been already mentioned to your Lordſhip) was deprived of the Uſe of both Hand and Foot; had for a great while been confined to his Room, under the greateſt Weakneſs and Diſorder, and when his Lady lay in the next Room, on her Death Bed.

Theſe, my Lords, and other remarkable Circumſtances in his Family, which diſtinguiſh this particular Period of Time, as on the one Hand they have given the Writer of theſe fictitious Letters ſome Advantage towards fixing them on the Biſhop; ſo, on the other Hand, they afford his Lordſhip a like Advantage (in the moſt Providential Manner, I may ſay) towards clearing himſelf from the Imputation of them. Becauſe his Servants then attending him, are able to recollect what paſſed on that Occaſion, and to be very poſitive and particular in their Evidence concerning it.

His Lordſhip happened then to have Three Men Servants actually attending on him, and ſome one of theſe always, both Day and Night, either preſent with him in the Room, or waiting in the Paſſage at his Chamber Door, and the Weather being warm, and the Room cloſe, the Door was generally wide open: It was then this Reverend Prelate's Misfortune, that he was not able, without their Help, to ſtir, or even to lift up what he eat or drank to his Mouth. Beſides theſe, there were Two Women Servants, which conſtantly attended his Lady in her Room, which is next adjoining, and came frequently to him (once or twice an Hour) every Day with Accounts how ſhe did, the Biſhop himſelf being diſabled (for ſeveral Days before her Death) to go out of his Room.

And

And all theſe five Servants will depoſe, That for 14 or 15 Days before his Lady's Death, no Stranger whatever viſited his Lordſhip, much leſs ſtayed there any Time with him. This, (my Lords) the Women-Servants will affirm, as far as their frequent ſeeing of him gave them Opportunity to make theſe Obſervations. His Coachman, (tho' now Witneſs againſt him) has conſtantly affirmed the ſame Thing both Below, as well as before your Lordſhips. But the three Men (one of which was always in the Room Day and Night, as I before obſerved) can be moſt full and peremptory in their Teſtimony. So that the Biſhop could not poſſibly dictate theſe Letters, either to Mr. *Kelly*, or to any Body elſe, without the Privity and Obſervation of ſome of them.

This being a Negative, it is impoſſible to be more fully proved in any Caſe, and nothing but the remarkable Circumſtances that happened at that time, to which the Writer of thoſe Letters unluckily pinned them down, could have help'd us to ſo ſtrong and undeniable a Proof of it.

Whether Mr. *Kelly* was ever acquainted or viſited his Lordſhip (indeed I am not inſtructed) their Evidence I am ſure has proved nothing like it, nor is it material, much leſs criminal. But as to the particular time (12 *April*) when Mr. *Kelly* is ſuppoſed to have told Mrs. *Barnes*, and ſhe is ſuppoſed to have told Mrs. *Levit*, that his Lordſhip ſent his Coach for *Kelly*, we ſhall expreſly prove the contrary; and beſides that it is only hearſay of Mrs. *Levit* from Mrs. *Barnes* who denies it, and his Lordſhip's Diſability at that time to receive Company; I ſay (my Lords) beſides theſe Circumſtances, it is remarkable that the Coachman, and the Baker (who it ſeems was directed to keep a Diary of every Body that came, and of all that happened in his Lordſhip's Family) ſays not one word of this remarkable Incident, in either of their Depoſitions. The Coachman has denied that he ever fetch'd Mr. *Kelly* in his Lordſhip's Coach ſince he lived with his Lordſhip, or ever was at *Kelly's Lodgings*, or that he ever ſaw him or Mr. *Carr* in his Life-time; and ſurely their Silence (if there were nothing elſe in the Caſe) is ſufficient to infer, that he was not there at that time: And all Mrs. *Kay* and *Malone* ſwear is no more, than that they don't remember *Kelly* lay at Mrs. *Barnes's* that *Thurſday* or *Friday* (the firſt only ſpeaks in her printed Depoſition of a *Thurſday* or *Friday* about the middle of *April.*) And how is it poſſible they ſhould remember the time ſo exactly, for neither of them belonged immediately to *Kelly*, but were only Servants to Mrs. *Barnes*, who had other Lodgers in her Houſe? They did not even make theſe Affidavits till the 6th of *February* laſt; and 'tis no eaſy Matter to remember ſuch an inconſiderable Circumſtance of a Lodger (ten Months together) unleſs they likewiſe had been inſtructed before hand to keep Diaries of Mr. *Kelly's* Motions.

D. 47. 8. 9. *E.* 6. *b c.*

The Third General Charge againſt my Lord Biſhop, is the receiving of Letters from Abroad relating to this Conſpiracy. *Rep.* 41. *Appen. D.* 24.

Two Inſtances only of this Kind have been produced. The firſt from *Motfeild* (interpreted *Mar*) 11th *May*, addreſſed to *Illington*. *Rep.* 51. *Appen. D.* 35.

The other from *Digby* (ſuppoſed to be *Dillon*) 14th *July*, addreſſed to Mrs. *Weſton*. Neither of which (do they pretend to ſay) came to his Lordſhip's Hands, or if they had, that there is one criminal Word contained in them, and conſequently could not be (as I before proved) a treaſonable Correſpondence within the Letter or Intent of any Law.

That of *Motfeild's* is a meer Letter of Friendſhip, and (if from Lord *Mar*, as they ſuppoſe) is to a Perſon with whom he never had either Friendſhip or Acquaintance; but really ſeems deſigned for no other purpoſe but to fix upon his Lordſhip the Letter directed to *Muſgrave* of the 20th *April* (for the ſame reaſon interpreted *Mar*) the receipt of which is there acknowledged; and in his words of Condolence there is ſomething (which 'tis ſaid, points out his Lordſhip's Character and Function) tho' in my humble Apprehenſion, no more applicable to his Lordſhip, either as a Biſhop or a Clergyman, than to any other Perſon; eſpecially if it be conſidered (as it really is) the Stile of a Letter of Compliment. But if the Letter it ſelf, to which this is pretended to be an Anſwer, ſhould prove to be a meer Fiction, the Anſwer to it, (tho' it were Criminal) muſt fall with it, as part of the ſame Contrivance.

And as to the Letter from *Digby* to *Weſton*, tho' that Hon. Committee ſeem to lay ſome Streſs upon it, by printing it at length in their Report, yet there is nothing in it that can affect any Man criminally, but his Lordſhip not at all; be-

becauſe the Paſſage in it, relating to his Health, and the Concerns of his Family, cannot poſſibly be applied to him. It implies, that he was then in a very ill State of Health (*July* 25.) and his Family in great Diſorder, whereas his Lordſhip (I can ſpeak it, my Lords, upon my own Knowledge, as well as the Teſtimony of ſeveral Clergy of his Dioceſs, and others) was then perfectly well, and able to tranſact all the ordinary Buſineſs of his Dioceſs and Deanery, and had been ſo for above two Months, having myſelf the Honour at that time to be concerned with his Lordſhip in a very tedious and intricate Enquiry; and the diſorder in his Family (if it means the Death of his Lady, for that or nothing is meant by it) had been over a much longer ſpace of Time.

Nor is it probable that ſuch a Miſtake ſhould be made by the Perſon (whom the Name of *Digby* is ſuppoſed to denote) if what the Report *p.* 39. and the Appendix D 32 and 29, informs us, be true, that two Letters had ſometime before been written to *Digby*, or his Secretary, the one (*July* 4.) aſſuring, *Weſton* was never better in his Life, the other (14 *July*) affirming he was then perfectly well. But it is ſtill more improbable, if your Lordſhips will conſider what that Hon. Committee have juſtly obſerved, in the very ſame Leaf, that the Profeſſions of theſe two Correſpondents were ſo foreign and different as to lay no ſort of Foundation for Intimacy or Intercourſe between them; and the natural and only Concluſion (we think) from hence, is, that the Letters on this Head, either from this or the other ſide of the Water, cannot be genuine; and that no fair or regular Correſpondent could be guilty of ſuch groſs Miſtakes.

And of both theſe Letters from *Motfeild* and *Digby*, your Lordſhips have (I doubt not) obſerved, that there is no pretence of Proof concerning the Hands in which they are written; which ſurely would have been more requiſite, than the Application of feigned Names, to aſcertain them. Otherwiſe any one who was acquainted with ſuch Names, might write Letters from the other Side, as coming from the Perſons deſigned by thoſe Names, which they themſelves were ignorant of.

And as the Receipt of theſe Letters by his Lordſhip has not been proved, ſo there is not any Inſinuation or Pretence that he ever anſwered them, tho' they both bear Date long before his Lordſhip's Commitment.

This part of the Scheme therefore for charging his Lordſhip with a foreign Correſpondence under fictitious Names, was not ſo artfully contrived, as the former; and ſeems, by ſo many groſſer Miſtakes, to have proceeded from ſome Body that had a much worſe Intelligence concerning his Lordſhip's Affairs.

I ſhall here beg leave to take Notice of the Letter taken from one of his Lordſhip's Servants in the *Tower*, on which the learned Counſel have laid ſuch great Streſs, becauſe there were no Profeſſions of his Innocency in it. If there had been, I ſuppoſe they would not have been much regarded. Why therefore ſhould it be any Argument againſt him, becauſe there is no ſuch thing? Matters are at a very low Ebb, when ſuch Trifles are relied on. But there is another Reaſon. That Letter I ſuppoſe to have been intended for ſome near or intimate Friends, and to ſuch Perſons there was no need of making ſuch a Profeſſion. They knew (whoever they were) and were before ſufficiently perſuaded of his Lordſhip's Innocency, and that it was impoſſible he ſhould be guilty of what is laid to his Charge. And by what has already appeared to your Lordſhips, I may ſay, this Reverend Prelate had no need of making ſuch an Apology, and that the Perſuaſions of his Friends were not ill grounded.

The Fourth Head, to which the Charge againſt his Lordſhip may be reduced, is the Coincidence of Circumſtances, Times, and feigned Names in the intercepted Correſpondence, to induce your Lordſhips Belief of the before mentioned Hearſays and ſuppoſed Facts, that his Lordſhip, and he only, is meant by that Correſpondence.

And the chief Obſervation about the Coincidence of Times and Circumſtances, relate to the three Letters of *April* 20. his Lordſhip's Illneſs, and the Death of his Lady, and the Preſent of the Dog about the ſame time. All which have already been accounted for, either as Truths publickly known, turned by ignorant or malicious Correſpondents to ill Purpoſes, or as abſolute Falſities, as will appear to your Lordſhips by our Evidence.

1. As to the Article of Times, of his Lordſhip's coming and going, it muſt be own'd, the Penmen of theſe Letters are ſometimes right, but they are as often wrong, and the Miſtakes are of more Conſequence to deſtroy what is inferred from them, than the real Agreements, in Point of Time, are, or can be to eſtabliſh it. There is no doubt, but the Correſpondents on this Side (whoever they were, and whether out of Malice or Vanity) apprized themſelves as well as they could of his Lordſhip's Motions, in order to give a colour of Probability to what they ſaid of him: And yet it happens, that out of ſeven Inſtances occurring in theſe Letters, and referred to in the Report, three of them (if not four) are plain and groſs Miſtakes; Two only are true in all their Circumſtances, and of the other two, it may be doubted whether they anſwer the Truth in every reſpect, or not.

Firſt, As to the two doubtful Inſtances, one is 49 *pag. Rep.* D 29. where *June* 14. *G. W.* writes to *Quitwell*, Mr. *Weſton* is in the Country, I ſaw him two Days ago. If theſe Words mean, that he ſaw him two Days ago in the Country, (which is the moſt obvious Senſe of them) then the Aſſertion is falſe; for his Lordſhip came to Town *June* 12. as appeared yeſterday by the Coachman's Book; but if they mean, I ſaw him two Days ago in Town, then the Aſſertion may be true.

The other Inſtance is *Report* 51, 52. D 41. ſomebody writes *July 26.* to *Maiſonneuve* that *Rig* and *Skin* had been lately together, and that *Rig* went into the Country the Day after. Now by Depoſitions D 48, it appears the Biſhop went out of Town *July* 21. they muſt have met therefore on the 20*th*, which don't well anſwer the Word *lately*, which one would think imported 6 or 7 Days. And therefore theſe two Inſtances we ſet aſide, as neither plainly true, nor plainly falſe. The three next are manifeſt Miſtakes.

In *Hatfeild*'s Letter to *Muſgrave*, *May* 7. it's ſaid, Mr. *Jones* is come to Town only for a Day, and yet (if *Jones* means the Biſhop) he had been in Town two Days, and ſtaid in Town three Days longer; for he came 5*th May*, and returned 10*th May*, as appears by *Lawſon* and *Wood*'s Examination. D 47, 8. E 49.

So in a Letter of *J. H.* to *Dixwell*, *June* 12, it's ſaid, *Rig* (ſuppoſed to mean the Biſhop) is I hear in the Country; whereas his Lordſhip was at *Weſtminſter June* 18 and 19, as appears by the Coachman's Book.

In a Letter to *Maiſoneuve*, *July* 19. E 59. *Rig* is again ſaid to be in the Country; whereas his Lordſhip was at *Weſtminſter* that very Day, and continued there till the 21*ſt*, as appears by the ſame printed Depoſitions.

And the Miſtakes in theſe three Inſtances are the more remarkable, becauſe they all affirm his Lordſhip to be in the Country, when he poſitively was not; whereas it was ten to one, but that even meer Gueſſes had been true; at a time of Year that every one almoſt is in the Country, and his Lordſhip was really ten Days in the Country, to one that he was in Town, during the whole Summer.

But, *My Lords*, I muſt with ſome Regret take notice, that none of theſe Miſtakes are ackowledged in the Report of that Honourable Committee, tho' all the Letters and Paſſages are tranſcribed in it, particularly that of the 7th of *May*, E 42. Theſe Words are inſerted in the Report, page 41. [*Mr.* Jones *is come to Town*] but the following Words [*only for a Day*] are omitted, and yet the Section concludes, *that it agrees with the Enquiry made at that Time*, which indeed it does (as far as it is there quoted) tho' not with the Appen. *E.* 42.

What Enquiry of this kind was then made, and with what Views, we cannot ſay, unleſs we may ſuppoſe it to be made by his Neighbour *Lawſon*. If it was, 'tis ſtrange, that he ſhould not depoſe from his own Knowledge and Obſervations (in *May*) but only as to what he had heard and was told by *Wood*, his Lordſhip's Coachman, ſo lately as the 19th of *February* laſt. I would reconcile this if it be poſſible; and the moſt natural Inference I can draw from it is, that *Lawſon* (or whoever that Enquirer was) had pretended to take ſome Account of his own at the Time mentioned by the Committee, which, upon Compariſon with that of the Coachman's, he found to be manifeſtly Falſe and Erroneous, and therefore would not produce or depend upon that; but we hope his Teſtimony can receive no Advantage from ſuch a Conduct. And upon the whole it appears, that tho' more Induſtry has been employed on the Article of Enquiry, yet as many Miſtakes have been made in it, as in any other.

And as for the Coachman's Book, after all it cannot be entirely relied on; becauſe the Entries made in his Book can only relate (as we apprehend) to the Charges of Turnpikes and Ferryings, or ſuch other Matters for which he was accountable.

countable. He had no reaſon to take Notice in ſuch an Account, when his Lordſhip was in the Coach, when, *Not*; and your Lordſhips have heard, cannot be poſitive on that Head. And therefore how exact ſoever his Accounts may be, in reſpect to thoſe little Diſburſements, they can add no Weight to the Obſervation drawn from them by that Honourable Committee; and tho' great Streſs has been laid on them, (with Submiſſion to your Lordſhips) they amount to no more, than *that ſome Perſon on this ſide the Water, writing to ſome on the other ſide, are ſuppoſed to mention his Lordſhip, ſometimes as in Town, or in the Country*; and from thence 'tis inferr'd, that they had frequent acceſs to him, and conſequently the Matter of their Correſpondence is imputed to him.

Had theſe Correſpondents been exact, *My Lords*, in all their Accounts of his Motions, ſurely no ſuch Concluſions could have been reaſonably made; but as they are oft'ner wrong than right, it follows, they were not ſo well acquainted with his Lordſhip or his Circumſtances, as (to ſerve their evil Purpoſes) they have pretended to be.

Having thus ſpoken as to the Circumſtances of Times (which are thrown in to induce a Belief, that his Lordſhip was meant by that Correſpondence) I ſhall next offer ſomething as to the Cant Names; and tho' it has been already obſerv'd to your Lordſhips in various Inſtances, that the Names of *Jones*, *Illington*, and *Weſton*, could not poſſibly belong to him: Yet give me leave, (*My Lords*) to ſay further, that *Jones* is not only a very common Name (for in one Society, I think, I remember no leſs than ſixteen of the Name at once) but that Name is manifeſtly applied to very different Perſons, even in the Papers contained in the Appendix. In *Plunket*'s Cyphers, *Jones* denotes the *Germans*: Twelve or Fourteen Times it is ſuppoſed to denote the Duke of *Norfolk*, in three other Places to denote Sir *W. Ellis*; and even in the Letters imputed to *Kelly*, there are Paſſages (beſides thoſe already mentioned to your Lordſhips) which cannot with any Reaſon or Probability be applied to his Lordſhip: For inſtance, *D.* 23. *Jones* and *Illington* are within the Compaſs of two Lines plainly diſtinguiſhed, as two different Perſons, and therefore both cannot be apply'd to his Lordſhip. And in the ſame Letter as well as a preceding Letter, *D* 13. *Jones* is mentioned as having undertaken to do ſomething for a Boy at *Eaton*; where it is well known, his Lordſhip has no Influence or Acquaintance, and if he had intereſted himſelf there on any ſuch Account, it would eaſily have been diſcovered. And this, *My Lords*, is one ſtrong Inſtance to ſhew the Ignorance of the Writer, even in ſome of his Lordſhip's moſt notorious Circumſtances.

Rep. 48, 9. 59. 68.

A great deal of Pains has likewiſe been taken, by the help of divers Suppoſitions and Reaſonings, to prove that *Rig* denotes his Lordſhip. However, I ſhall take Notice but of one, in the Letter to *Gerrard*, which is ſaid to be Sir *J. D'Obryan*, Report 49. *E.* 47. Where ſomething is ſaid of *Rig*, highly Improper, and abſolutely Falſe, if to be underſtood of the Biſhop. An Account is ſaid to be given of the Difficulty *Kelly* had to get Bail, and it is added—*Your old Friend* Rig *indeed offered all that could be expected of the Poor Man.* (If my Inſtructions are true) *D'Obryan* is a Name his Lordſhip never heard of before, nor had the leaſt Concern in procuring *Kelly*'s Bail, nor knows to this Day who they are; the only Words applicable to him in this Paſſage, are thoſe of Poor Man; and his Lordſhip permits me to ſay, that he is really ſuch, poor both in Body and Purſe, and is poor as his Enemies almoſt can make him; and tho' he may have reaſon (if your Lordſhips ſhould paſs this Bill with all the Severities intended by it) to be heartily ſorry he is ſo, and that he has neglected thoſe Opportunities of enriching himſelf, which others would have laid hold of; yet he gives me leave, *My Lords*, to ſay, he is not aſhamed of that Poverty, becauſe free from all unjuſt Acquiſitions, and unworthy Compliances. But that he was a poor Man at that Time, *i. e.* unable to procure Bail (which is the Senſe that Writer means it in) cannot with any Decency or Juſtice be applied to one of his Lordſhip's Intereſt and Station, if he had concerned himſelf in it.

Give me leave (*My Lords*) to take Notice of another Miſtake of that Honourable Committee in the very ſame Letter; I mean, a Paſſage cited from it which is not in it, to prove that *Rig* and his Lordſhip are the ſame Perſons; which I ſhould have omitted, but that it breaks at once the Chain of Reaſoning, there made uſe of. The Words are, *how far this late Affair may affect him* (Rig) *I cannot tell*, and *E.* 47. is cited for them. Now *E.* 47. gives an Account of *Kelly*'s Examination

nation promiſcuouſly with other Matters, and was written *June* 11th, but the Letter where the Words really are, is *E.* 49. of the 18th of *June* (near a Month after *Kelly*'s Examination.) Nor is there a Word in that about the Dog, but it might be proper to confound theſe two Letters, and connect theſe two Particulars, in order to make out, that *Rig* and his Lordſhip are the ſame, tho' they have really no Relation one to the other.

We might add, my Lords, many other groſs Errors in the Application of Names, but if your Lordſhips are ſatisfied with the Juſtice of thoſe we have already mentioned, (as I hope your Lordſhips are) there will be no need to regard the reſt; for though they have ſome little Coincidencies of Time, yet they are daſhed with ſo many Inconſiſtencies, and ſo many Falſities, that no fair Correſpondent could be guilty of. But there is one which of all others bears hardeſt upon this Reverend Prelate, the moſt Criminal in the Matter of it, and from which he is moſt deeply concerned to clear himſelf; *i. e.* the Letter of *April* 20th, which has been over and over affirmed by that Honourable Committee, as well as by the Counſel for the Bill, to be a Letter to the Pretender; if that be ſo, and had been proved by any Degree of Evidence, to have been dictated by his Lordſhip, we ſhould have been utterly at a loſs what to have ſaid, in a Caſe, that would have been ſo fully within the Letter of the Law. Part of it, my Lords, we have already ſhewn to have been charged on his Lordſhip without the leaſt proof or ſhadow of Evidence; the other Part of the Charge we hope now to prove equally groundleſs and falſe.

That the Letter addreſs'd to *Jackſon* was not to the Pretender (whomever elſe it may mean) we think appears clearly from the Words of it, *our Circumſtance on this Side*; a Phraſe not only uſed by all Writers, but is the conſtant uſual Stile throughout all the Papers in the Appendix, in contradiſtinction to *France*, which is the other Side, but never to *Italy*, as the Caſe muſt be here, if *Jackſon* means the Pretender. The Inſtances in the Appendix are almoſt infinite. *Rep.* 43, 50, 56, 61, *App.* E. 49, 35, 55.

There is another Reaſon, why we think the Name of *Jackſon* cannot reaſonably be ſuppoſed to denote the Pretender, is from E. 30. where there is mention of dividing *Clinton*'s Money between *Medley* and *Jackſon*, *i. e.* ſays the Rep. p. 54. between *Medley* and the Pretender. But it is not to be imagined, that a Letter written from one devoted to the Pretender's Intereſt, ſhould place *Ormond* before him; this is ſo unlikely, that even the Committee, ſpeaking in their own Perſons, at the bottom of this very Page, ſlide naturally into the other Way of placing the Words, the *Pretender* and *Ormond*. Beſides this, my Lords, there are ſo many Familiarities [to mention but one, *all ſuch pretending People*] in the Letter it ſelf, that it could never come from any one (as I before ſaid, devoted to that Intereſt) at leaſt not to the Pretender himſelf, but to ſome equal, or rather to ſome inferior. *Jackſon* therefore muſt mean ſome body elſe, ſome body in *France*, and not the Pretender in *Italy*, and on this Suppoſition, every Word, and Phraſe of that Letter is better accounted for, than on any other.

The Committee of that Hon: Houſe below have been pleaſed alſo to obſerve, *p.* 45, 46. that *Jackſon* appears from other Letters, to be the ſame as *Malcolm*, (which they ſay means the Pretender) and for this Reaſon; becauſe [*pag.* 54. E. 30.] *Clinton*'s Money is to be divided between *Medley* and *Jackſon*. And *pag.* 56. ſomebody hopes *Clinton* has ſent *Malcolm* half Money, which proves indeed, that either *Medley* or *Jackſon* means *Malcolm*, but which may be ſtill a Queſtion, as much as it was before.

That *Malcolm* means the Pretender, 'tis proved, becauſe Application is made to *Malcolm*, in a Letter from *Scotland* for a Patent, and for Power to raiſe a Regiment, *Rep.* pag. 45, 75. but with Submiſſion to that Honourable Committee, neither of theſe Inſtances prove that Aſſertion; ſince the moſt natural Way of applying in ſuch Caſes, is to Perſons employed under the Principal, and not immediately to the Fountain Head it ſelf; and if the late Duke of *Ormond* was to have come over laſt Summer to head the *Scots*, and they daily ſent preſſing Meſſages to that Effect (as Mr. *Stanhope* writes from *Madrid* Rep. *p.* 75.) who more proper to be applied to by a *Scots Man* on both theſe Occaſions? *Malcolm* therefore (with Submiſſion to the Committee) more naturally means the late Duke of *Ormond*.

I may add to this, my Lords, that in the Cypher inſerted among the *Scotch* Papers, I. 14. *Davis* and *Lloyd* (not *Malcolm*) is ſaid to be the Name and Deſignation of the Pretender.

I hope, we may be allowed to argue in this manner, from one Cypher to another, becauſe the ſame Method has been made Uſe of againſt us, upon this very Article, both by that Honourable Committee, and the Counſel for the Bill; for the only Colour there is for interpreting *Jackſon* to be the Pretender, is taken from *Plunket*'s Cypher, in which, (as it is printed) *Jackſon* is ſet over againſt the Name of the Pretender, and from the Titling to the Draught of a Letter of *Plunket*'s to *Jackſon*, C. 41. and admitting this Letter to have been ſo intitled by himſelf, (which has not been proved) yet it does not follow, (as I before obſerved) that becauſe a Letter addreſs'd to one at *Rome* by *Plunket* under the Name of *Jackſon*, ſignified the Pretender; that another Letter directed to one of that Name in *France*, by a quite different Perſon, ſhould likewiſe neceſſarily ſignify the Pretender. This, my Lords, I beg leave to ſay, is no certain or natural Conſequence, but it is moſt certain, that that Draught (whomſoever it was intended to) was not written upon that Cypher which the Committee refer'd to, in order to have it thought to have been written for the Pretender; for there is but one only of the many Cant Names in the whole Letter which is to be found in that Cypher. But if your Lordſhips will be pleaſed to conſider that Cypher a little farther, it will appear, that the very Perſons ſuppoſed to be concerned in dictating this Letter to *Jackſon*, were utterly Strangers to the Correſpondence; for it conſiſts of a hundred and fifty Names, and no Man can find above four that are in this Cypher, or in all that voluminous Conſpiracy attributed to *Kelly*; nor any of thoſe four ever uſed in the Letters ſuppoſed to be writ by *Kelly*, but in thoſe only ſuppoſed to be written to him from Abroad.

The Name of *Jackſon* is not once in all that Correſpondence applied to the Pretender; and though there be a hundred proper Occaſions of mentioning him, it is always under ſome other Appellation. And *Plunket* himſelf in his Examination C. 73. Sec. 14. (when he could not poſſibly know the Tendency of the Queſtion) not only ſays poſitively, that he never writ to any Perſon by the Name of *Jackſon*, and does not know who is meant by it, but it is alſo remarkable (my Lords) that in all the Letters ſaid to be written by him upon that Cypher (after it was formed) he never once ſtiles the Pretender *Jackſon*, but either *Joſeph* or *Jepſon*.

The firſt of theſe Letters is in *May* 1721, and therefore that Honourable Committee have with great Exactneſs placed this Cypher immediately before it, as ſuppoſing it about that Time framed; for all the preceding Letters are manifeſtly written upon another Cypher. Now this Letter of the 20th of *April*, ſuppoſed to be dictated by his Lordſhip was written before that Cypher of *Plunket*'s was framed, and conſequently could not take a Name from a Cypher, which then had no Exiſtence.

There is another Obſervation of that Honourable Committee, which I beg leave to take Notice of. They ſay, that the Cypher made uſe of in this Letter to *Jackſon*, is the ſame made uſe of in the Letters from the late Duke of *Ormond*'s Agents, and in Letters to *Dennis Kelly*; and yet the Pretender has ſome other Names in ſuch Letters, but in none of them ever once ſtiled *Jackſon*. How comes it then, my Lords, that he ſhould be ſtiled ſo once, in this one Letter, and never before, nor after, by that Writer, or by any other?

We have been the longer, my Lords, in removing this Imputation, becauſe of all others it is the hardeſt and moſt unjuſt upon this Reverend Prelate; and upon the whole, we hope, it is fully and effectually done, (notwithſtanding the Difficulties we had of proving a Negative) and even from thoſe Lights and Materials the Committee themſelves have afforded us; and if we had had Opportunity of inſpecting the Originals, we doubt not, we ſhould have been able to have proved much better, that *Jackſon*, (to whom this Letter of the 20th of *April* was directed) could not poſſibly mean the Pretender.

And if that be the Caſe, as it certainly is, and it appears farther by the Evidence which we ſhall produce, that theſe three Letters of *April* 20. were not, and could not poſſibly be dictated by the Biſhop, the Foundation of the whole Charge is deſtroyed, and conſequently, all the Superſtructure muſt fall to the Ground. Nay, I will venture to affirm, that it is impoſſible for them to form any Scheme to prove the Biſhop wrote theſe Letters, but what is, and will be actually diſproved and falſified, by ſome part of their own Evidence.

HAVING thus gone through, my Lords, every part of the Charge, I muſt crave your Lordſhips Patience, yet to ſpeak to two Things, which have been much

much inſiſted on by the Counſel for the Bill. That when your Lordſhips proceed in *a Legiſlative Capacity*, *you are not to be guided by the Rules and Niceties of Law*, and therefore that we are not in this Caſe to expect an Evidence ſtrictly legal. The other thing was, *that at this time of Day circumſtantial Evidence* is ſufficient, in a *Charge of High Treaſon*, as the Caſe now before you is. This (my Lords) we have heard fully and often repeated, as it were to anticipate us in this Objection, which they themſelves know to be ſo juſtly founded.

I have ſo far acted in Complaiſance to them, as to argue chiefly on the Facts and Circumſtances themſelves, and under the very ſame Lights they have preſented them to us, and hope (my Lords) our Inferences from them have been more juſt, our Conſtruction more natural, and our Probabilities much greater than theirs; and even in that View (conſidered abſtractedly from what the common Law, and the common Juſtice of the Realm requires,) I hope we have fully ſhewn to your Lordſhips Satisfaction, and to the Conviction of every reaſonable or impartial Perſon, that there are no Grounds for what is ſuggeſted in this Bill; and that all that hear me, may juſtly Wonder, how this Reverend Prelate comes to be charged (as he is in the Preamble of the Bill) with being deeply concerned in forming, directing, and carrying on a Conſpiracy; when it has not been proved, that he entred into any one Conſultation, concerted any one Meaſure, gave any one Direction, that he has done any one criminal Act, written, dictated, or received any one criminal Letter; and if we ſhould wave inſiſting on an Evidence ſtrictly legal, or a Proof according to the known Rules of Law; give me leave to ſay, my Lords, becauſe it is true, there has not been a reaſonable Evidence.

But yet, my Lords, I ſhall always inſiſt, both as an Engliſhman, and as Counſel to this Reverend Prelate, that there ought to be a legal Evidence in theſe, as well as in any other criminal Proceedings. If there is any Difference, it is in this only, that as there are certainly many greater Inconveniences to the Subject in this Method of Proceeding, there ought to be a ſtronger Proof, and a Conviction more ſtrictly legal. I will always hope, your Lordſhips will expect a Proof in ſuch heavy Charges agreeable to the Laws of the Land, and the Rules and Reſolutions of other Judicatures. I am far from thinking your Lordſhips are circumſcribed by the Forms of inferior Courts, becauſe they are in their own Nature diſcretionary, and the Courts themſelves often vary and depart from them. But the fundamental Maxims of Law, the unalterable Meaſures of Juſtice, and the poſitive Directions of an Act of Parliament are of another Nature; they are binding every where, to all Perſons and Authorities, (as long as they continue Laws) the King himſelf not excepted. I ſhould beg Pardon, for carrying my Aſſertion ſo far, but that I am taught by the Bill of Rights, that the King himſelf is bound by the Law, that it is not in his Power to alter, ſuſpend, or diſpenſe with Laws. But if the Doctrine of the Counſel for the Bill is true, and every one at Liberty to follow the Dictates of his own Judgment, and what Rules he pleaſes, what Confuſions, Uncertainties, and Arbitrarineſs muſt that introduce in all Proceedings? Private Opinion will too often be a Pretence to exerciſe private Malice, Revenge, or Ambition.

I might appeal to every one that hears me, whether he has not, at ſome Time or other, believed ſome things as ſtrongly as he did at firſt this Reverend Prelate to be guilty of what was ſuggeſted againſt him, and has afterwards found himſelf miſtaken? What is more common than for Men that agree in the ſame Notions of Morality, to deduce different Concluſions and Applications from them? (even where Intereſt or Partiality do not intervene;) and therefore, the Wiſdom of the Law of *England* has been to determine general Notions of Juſtice and Right by particular Rules and Applications, in order to ſettle that Variety and Inconſtancy, which without ſome eſtabliſhed Rule muſt neceſſarily follow. Where then ſhall we go for thoſe true and proper Notions of Law or Equity, but to thoſe great Oracles and Fountains (my Lords the Judges?) What better Guide, or more certain Rule, can any one of your Lordſhips propoſe to himſelf, than the conſtant and uniform Judgment of thoſe, whom the Conſtitution of this Kingdom have made the proper Diſpenſers of Juſtice, and the Interpreters of Law?

'Tis your Lordſhips peculiar Advantage, to be continually aſſiſted by ſome of my Lords the Judges, and we hope in this Inſtance (if any Doubt can at laſt remain) your Lordſhips will hear their Opinion with the ſame Deference and Candor as in former Caſes. Let it never be ſaid, my Lords, that you, who are the

ſupream

ſupream Oyer of the Kingdom, whoſe Judgments and Reſolutions are Laws to other Courts, and ought to be an Example to all others, in the Juſtice and Equity of your Proceedings, that your Lordſhips will not regard the ſolemn Judgment of the Judges, or the Uſages of former Parliaments: And let it not be ſaid, that becauſe other Courts are bound by a Law, to require ſuch and ſuch Circumſtances to infer an Offence, or ſuch a Proof before they condemn a Man, that you (my Lords) will follow your own private Opinion, make what you pleaſe to be an Offence, without any Evidence at all, but upon mere Hearſays, Conjectures, and Suppoſitions. Who can read that melancholy Caſe without Concern, which my Lord *Coke* has in his 3d *Inſtit.* of an Uncle that was condemned and executed for the ſuppoſed Death of his Niece, merely upon a Train of Preſumptions and circumſtantial Evidence: Or *Hariſon*'s Caſe within Memory, where the Father and Mother both ſuffered upon Preſumption for a ſuppoſed Murder; and with what Shame and Remorſe did that haſty Judge ſee himſelf convicted by the Perſon returning from beyond Sea? And every one almoſt remembers the Charge of Treaſon againſt this Reverend Prelate's Predeceſſor: if ſuch a Bill had been thought on, or much ſtronger Evidence had been received, it might have paſs'd before the Truth could have appeared. But happy was it for that innocent Prelate, that a quite contrary Method was taken, and his Accuſers brought Face to Face to him, by which he quickly diſcovered the Villany of thoſe Miſcreants. Private Opinion or Perſuaſion therefore is ſuch a Poſition, that every honeſt Man ought to diſclaim in theſe Caſes, and the greater the Crime is, in which he is to judge, the ſtronger Proof he ought to require; and when one adheres ſtrictly to Juſtice, and goes according to the *Allegata & Probata*, by the beſt Rules and Reaſons of Law; whatever Miſtakes, Miſinformations, or falſe Evidence may happen in the Caſe, he can never have Cauſe to repent, and neither the preſent Age nor Poſterity can blame him.

It was formerly a Queſtion, whether the *Star-Chamber* was bound by the Rules and Reſolutions of other Courts: And the many Exceſſes, and extravagant Opinions in this Reſpect, was the Reaſon that antient Court was laid aſide. And it has been as great a Queſtion, whether the Court of Chancery was to be guided by Rules and Precedents. But the better Opinion has always been, that a Judge in Equity ought to regard the Rules and Reſolutions that have been in like Caſes; unleſs he is reſolved to make Decrees totally arbitrary.

For though Equity and Reaſon, in itſelf, is the ſame all the World over, and nothing can alter the proper and intrinſick Notions of it; yet, as the Matters about which it is converſant, are repreſented in different Circumſtances, and, like Streams of Water, will receive ſome little Tincture from the Soil through which it runs, and ſomething in every Man's Temper that will ſlide into his beſt formed Notions; it ſhews the Neceſſity of ſome fix'd and eſtabliſh'd Rules, at all Times, and in all Places of Judicature. And therefore, in that High Court of Equity, though the Rigour of the Common Law is in ſome reſpects ſoftned, yet there is nothing more known, than that it is not to be impeach'd in any of its eſſential and fundamental Points.

I hope your Lordſhips will pardon me, if I mention an Authority or two of great Name, that expreſly ſay, the High Court of Parliament is likewiſe bound by the Rules of Law. Lord Chief Juſtice *Holt* ſays, The Authority of Parliament is from the Law; and as it is circumſcribed by Law, ſo it may be exceeded, and if they do exceed their legal Bounds and Authority, their Acts are wrongful, and cannot be juſtified any more than the Acts of private Men. I might add to this, the Opinions of *Vaughan*, *Hales*, and *Hobart*, to the ſame purpoſe; that the Rules of Law ought to guide in paſſing of Acts of Parliament, as well as in the ordinary Courſe of Judicature. But when I mention the Senſe of a living Authority, that has filled the higheſt Stations in the Law, and ſo great an Ornament to your Lordſhips Houſe, and whoſe Merits have been ſo lately diſtinguiſhed by new Honours, I need cite no more. It was in a Caſe, where the ſame Doctrine was advanced (that the Parliament was not bound to conform to the Rules and Proceedings of other Courts): In anſwer to which, that noble Lord with great Truth obſerved, that thoſe Rules were not to be Patterns to them, only becauſe they were Rules of thoſe Courts, but becauſe they were Reaſon, and Reaſon approved of by long Experience, and they obtain there as Rules for that Cauſe; and I hope (ſays he) that is a Cauſe why the Houſe ſhould imitate them, as much as *Weſtminſter-Hall*; or elſe how can they be ſaid to go according to Reaſon, or Juſtice, when they go beſide, or tranſgreſs thoſe Rules?

Saw. Rep. 504.

Beſides

Beſides theſe great Authorities, there have been Times, when Parliaments have thought themſelves bound by the common Rules and Proceedings of Law, and Parliaments that were very tender and ſenſible of their own Power, in other Reſpects. Not to mention ſeveral antient Acts of Reverſal, becauſe Judgments given in Parliament were not pronounced according to the known Laws; there is the Act for the Attainder of the Earl of *March*, becauſe he had been inſtrumental in procuring the Attainder of another Lord, under Pretence of a Letter, (which the Record expreſly ſays) was no Evidence. And the Record for reverſing the Attainder of *Roger Mortimer*, 28. *E.* 3. Sir *Thomas Haxley*, &c. is expreſsly declared to be, becauſe they were attainted contrary to the good Laws and Cuſtoms of the Realm. And not only the Lawyers and the Hiſtories of thoſe Times condemn them as groſsly contrary to Law and Juſtice, but the Stat. 1 *E.* 6. *cap.* 12. is directly levelled at them. For it recites that thoſe Proceedings were terrible and extream, introduced for particular Policies and Purpoſes, repeals ſeveral Statutes that had been enacted in the preceding Reigns, and that there might be no more ſuch for the Future, reduces all Treaſons to the antient Standard of the 25 *E.* 3. and goes on and enacts, That no Perſon or Perſons (*i. e.* my Lords, as I humbly apprehend no manner of Perſons, in no manner of Place, Court, or Method) ſhall be convicted for any Offence of Treaſons, Petit Treaſons, Miſpriſions, for which the Offender ſhall in any wiſe ſuffer any Pains of Death, Impriſonment, loſs of Goods or the like, unleſs accuſed by the Teſtimony of two lawful and ſufficient Witneſſes. The Stat. 5. *E.* 6. *cap.* 11. goes further, and ſays, There ſhall not only be two Witneſſes, but thoſe two Witneſſes ſhall be produced in Perſon before the Party, and ſhall before his Face maintain and avow, what they have to ſay. The Words of this Stat. as well as the former, are as general, as they can be, without any Exception of Place or Proceeding.

But notwithſtanding theſe two Statutes, there was ſtill Occaſion for the Stat. 7. *W.* 3. to aſcertain Treaſons and to regulate the Method of Trials. For there had been ſeveral tender complaiſant Laws introduced by the pretended Zeal of Miniſters, with a peculiar Eye to the Prince on the Throne, which tho' others could not apprehend the Juſtice or Neceſſity of, yet on theſe Laws here had been many unreaſonable Penalties, undue and irregular Proſecutions, in the preceding Reigns, and which Sir *Jo. Hawles* remarks as one of the great and immediate Cauſes of the Revolution. And to ſhew the Reſentment of the Nation, on theſe Proceedings, they were all reverſed by particular Acts of Parliament; and to prevent the ſame for the Future, that glorious Statute was made of the 7 *W.* 3. *cap.* 3. That Perſons accuſed as Offenders ſhould be juſtly and equally try'd, and not be debarr'd of all juſt and equal Means for the Defence of their Innocency. And whoever caſts his Eye over the preceding Trials, will find every Clauſe of that Statute as it were a particular Proviſion againſt the Miſchiefs that had been, and to prevent the like for the Time to come.

I do admit (my Lords) there is a Proviſo in the End of that Statute; [that it ſhall not extend to any Impeachments or Proceedings in Parliament] and therefore I don't mention it as a Rule to parliamentary Proceedings in all Reſpects, as it is to inferior Courts; but ſurely the Reaſon and Juſtice of that Act ought to be a Guide, as far as it is conſiſtent with the Nature of your Lordſhip's Proceedings. And inaſmuch as it was the Senſe of the whole Legiſlature, and the united Voice of the Nation at that Time, and founded on a dear bought Experience, it is ſurely ſo far worthy of your Lordſhip's Imitation. It can never be conſiſtent with publick Wiſdom to run again into the ſame Miſchief from which we are ſo happily reſcued, or to ſplit on the very ſame Rocks, on which many of your Lordſhip's noble Anceſtors have periſh'd.

And it can never be (with Submiſſion to your Lordſhips better Judgments) a natural or a reaſonable Conſtruction of that Proviſo, to enlarge the Proceeding of Parliament, or to give a greater Latitude than ever they had before; and to remind your Lordſhips how the Uſage of Parliament was preceding this Statute; I need mention but two or three Inſtances out of many. Lord *Delamere*'s Caſe in King *James*'s Time, 1685, where there was one poſitive Witneſs and a ſtrong circumſtantial Evidence; and yet your Lordſhips Predeceſſors thought that not ſufficient to find him guilty. The Lord *Stamford*'s Caſe in the very ſame Year, where there was alſo one Witneſs, and ſtrong Circumſtances, and he was in the like Manner acquitted. In the Caſe of Earl of *Pemb.* 1677. for Blaſphemy and abuſe of the Sacraments, your Lordſhips Predeceſſors declared, That the ſingle Teſtimony of a Commoner, tho' on Oath, was not ſufficient

ficient Evidence againſt a Peer denying the Fact upon his Honour; and upon that addreſs'd his Majeſty that he might be releaſed from his Impriſonment.

And, as I humbly apprehend, your Lordſhips have thought fit to admit ſome of the Regulations of that Act into your Proceedings, ſuch of them (as I before ſaid) as are agreeable and conſiſtent with the Nature of your Proceedings. Your Lordſhips have been pleaſed to allow Counſel to a Priſoner in Treaſon, to ſpeak to Matters of Fact as well as Law: You allow a Copy of the Charge againſt him; you require the Witneſs for him to be upon Oath, as well as againſt him; neither will your Lordſhips admit Evidence of a Fact not in the Charge. And ſurely (my Lords) there is as much Reaſon, and as much Equity to require (as that Stat. requires in Courts below) the Teſtimony of two lawful and ſufficient Witneſſes. Nay, my Lords, I hope the Reaſon is much ſtronger, becauſe (altho' your Lordſhips ſhould conſider your ſelves as unreſtrained by the Stat. 7 *Will.*) yet it is poſitively requir'd by both the Statutes of *Ed.* 6. which are general and without Exception (as I before obſerv'd) and becauſe it is agreeable to the Uſage of Parliament (as I have likewiſe ſhewn) from that Time even down to the Stat. 7 *Will.* And if your Lordſhips are not enlarged by the Statute of King *William*, and the Statutes of *Edward* 6. are ſtill Laws, give me leave (my Lords) to ſay, it can never be juſt or lawful to take away any Man's Life or Liberty on leſs Evidence than what thoſe Statutes require, in any Place, or by any Method whatſoever. Becauſe I am taught by Caſuiſts, that every juſt Law is a Rule of Conſcience, whether divine or humane; and no Man can ſay, his Conſcience is void of Offence towards God or Man, unleſs he acts according to the Laws of the one Sort, as well as of the other.

And if your Lordſhips will give me Leave to ſtep once more out of the Verge of my own Profeſſion, I will mention a Word out of the *Civil Law* conformable to this: That is a Law (my Lords) in ſome Degree receiv'd by all Nations, as a Scheme of the greateſt Equity and Juſtice. The Number of Witneſs by that * Law, ought to be two, at leaſt, to make a full Proof, and free from all Exceptions, both as to their Perſon and to their Depoſition. The Teſtimony of a ſingle Witneſs is of no Validity, unleſs where other Circumſtances concur; and it was not the Manner of the *Romans*, to condemn any Man, before that he, which is accuſed, have his Accuſers Face to Face. And this (my Lords) is not only the dead Letter of the *Code* and the *Dig.* but the learned *Groenw.* in his Notes upon theſe Laws, ſays, it is the general Policy, and obtains at this Day in moſt Parts of the World. I do own that there are many Caſes that happen with us in the Courts below, where the Teſtimony of two Witneſſes is not required; but then, my Lords, it is, when the Trial is by Jury, that is, when twelve Men, coming from the Party's own Neighbourhood, and conſequently muſt be ſuppoſed to know ſomething of the Fact upon their own Knowledge, find a Verdict upon their Oaths. But I need not ſay, that even in a Trial by Jury, if it is a Caſe of High Treaſon, like this now before your Lordſhips, there muſt be two Witneſſes, and nothing leſs can warrant the Verdict. And ſurely, my Lords, it is a Practice founded on Reaſon; not becauſe this or that Law, or this or that Court requires it, but becauſe 'tis abſolutely neceſſary for the Diſcovery of Truth, and for the forming of a right Judgment, whether what is ſwore be true or falſe. One Witneſs may miſtake, or be perjured, and yet happen to be Conſiſtent with himſelf, but when there are two ſeparately examined, the Truth is much more eaſily found out: And tho' a Criminal may now and then eſcape for want of ſuch a Proof, yet that would be a far leſs Evil, than to truſt ſo much in Caſes ſo Penal to Circumſtances and Preſumption, and to the Malice and Miſtakes of one Perſon.

* *Dig.* 22. 5. 12. *Cod.* 4. 20. 9.

But if, notwithſtanding the Opinion of the greateſt Lawyers both *Engliſh* and Foreign, your own uniform Uſage and Reſolution, and the Reaſon of the Thing it ſelf, Your Lordſhips are reſolved in this one Inſtance to follow, every one his own private and particular Conſcience: Let every one hearken to that ſtill Voice within him with an honeſt Attention, unto thoſe ſecret Whiſperings with Temper and Moderation. Let no Man be ſway'd by Hopes, over-rul'd by Fears, or tranſported by Zeal beyond the Bounds of Juſtice, and thro' this Reverend Prelate's Side give a Wound to himſelf or Poſterity, which may never be cured. Conſider, my Lords, if not for his, yet for your own Sakes, the Circumſtances, the Probabilities, and Evidence on both Sides with an unbyaſs'd Conſcience, and by the Meaſures of Law and Juſtice. For though ſome Proceedings may ſeem convenient to certain Times and Occaſions, yet unleſs they agree with the Law, with Reaſon, and with Juſtice, no Man ought to think, he has any Power to conſent.

There

There is a noble Inſtance on Record of the Lord *Digby*, and worthy of every one's Imitation. He had been, my Lords, one of the moſt violent Managers in the Impeachment of the Lord *Strafford*; and yet when that Proceeding was waved, and a Bill of Attainder brought in, he ſpoke as violently againſt it: Though he was ſtill of Opinion (he ſaid) that that Lord was the ſame dangerous Miniſter, and great Apoſtate to the Common-wealth, who muſt not expect to be pardoned in this World, till he was diſpatched to another; yet he had rather loſe his Hand, than put it to that Diſpatch. He put them in Mind of the Difference between Proſecutors and Judges, and how unbecoming that Fervor was in them, now they were Judges, which perhaps might be commendable in them as Proſecutors. That when he gave his Conſent to the Accuſation, he was aſſured, his Crimes would have been fully and legally proved, which if they had, he cou'd have condemn'd him with Innocency, as he had proſecuted him with Earneſtneſs; but as the Caſe then appear'd, no Man could ſatisfy his Conſcience in the doing of it. The Parliament, 'tis true, had a judicial and a legiſlative Capacity, the Meaſure of the one ought to be legally juſt, the other political and prudential; but theſe two Capacities were not to be confounded in Judgment; they were not to piece up (ſays he) the want of Legality by Matters of Convenience, to the Ruin of a Man by a Law made *ex poſteriori*.

What can I ſay more? For it muſt appear to your Lordſhips by this Time, that this Proceeding is contrary to the fundamental Laws of the Kingdom, contrary to publick Wiſdom, and Unjuſt in it ſelf. That the Reaſons and Suggeſtions upon which it is grounded have not been proved with any Colour of legal Evidence, or with any Degree of Proof or Probability which ought to ſatisfy the Conſcience of an honeſt, reaſonable Man. But if the Matters, which I have humbly laid before your Lordſhips, have not all the Weight, which I hope they have, or if I have omitted any Thing that is material or neceſſary for this Reverend Prelate's Defence, Your Lordſhips, I hope, as Judges, and (conſequently in ſome Meaſure of Counſel for the Priſoner) will, from your own Obſervation ſupply it. Or if I have laid them before your Lordſhips in an improper Light, or a leſs effectual Manner than others might have done; yet the Caſe it ſelf will ſpeak better and more ſtrongly than any Words or Expreſſions of mine can do. It is the Cauſe, the Fortune, and the Liberty of a moſt Reverend and Learned Prelate, which is to be ſtripp'd and torn from thoſe Dignities and Preferments which his own high Merits juſtly called him to, and which he has ever ſince adorned with the greateſt Luſtre. Upon what ſlender and inſufficient Grounds your Lordſhips have already heard; and I was going to ſay, without Precedent; but I muſt own there have been Inſtances of Deprivation, ſome in the Beginning of Queen *Elizabeth*'s Reign, and ſome others ſince the Revolution. But yet they were upon a general Law, then in being, and an Incapacity voluntarily incurr'd by thoſe Prelates after the full Knowledge and Publication of thoſe Laws, by refuſing to give that Security to the Government, which at thoſe Times was abſolutely neceſſary. And though they were peremptory in the laſt Degree, and their Example might have produced worſe Conſequences than it did; yet their Puniſhment went no further. But this is a particular Law, to be introduced for this particular Prelate, ſubſequent to the ſuppoſed Offence, and which is not thought fit to be enacted as a Law for any other Perſon hereafter; and I wiſh, my Lords, I could ſay, this Act went no further. But this Reverend Prelate is likewiſe to be deprived, not of his Life indeed, but of all the Conveniences and Comforts of it, of the Commerce of his Friends and Relations, and of all that is valuable to an *Engliſhman*. He is to be doom'd to the Curſe of *Cain*, and to be turn'd out of his native Country, full of Age and Infirmities, to the Cruelty of Strangers and Foreigners, and even beyond the reach of his Majeſty's moſt extenſive Goodneſs.

But if your Lordſhips ſhould paſs this Bill, he will ſtill have, I doubt not, the Peace of his own Mind, and this comfortable Reflection, which no Man can take from him; that he ſhares the Fate of the greateſt and moſt honeſt Stateſman of the laſt Century: tho' in this Inſtance alſo 'tis his Lordſhip's Misfortune to be very much diſtinguiſh'd. For He, tho' innocent, was afraid of the Violence of the Times, and withdrew from Proſecution. But this Reverend Prelate has been all along forthcoming, and, as it were, fearful of nothing, and conſcious of nothing but his own Innocence, has ſought in all Places to be brought to Trial. That noble Lord's Crimes (or at leaſt his Accuſation) were going to be proved in a proper parliamentary Manner by Numbers of Perſons.

But

But this Reverend Prelate is to be involved by Implications, Inferences, Conſtructions, and the Conjectures of Decypherers, in Crimes, which he is here ready to deny, and of which no Man accuſes him.

I would not be underſtood, my Lords, by any Thing I have offered in relation to the particular Penalties, as if I thought any one Suggeſtion of the Bill had been duly proved, ſo as to deſerve this or that Part of the Penalties; tho' I muſt ſay, they are all ſo extraordinary in their Nature, as to deſerve your Lordſhip's Attention. And I doubt not, but your Lordſhips in your Goodneſs will conſider what is already paſſed, the Length and Cloſeneſs of the Impriſonment, which this Reverend Prelate has already ſuffered as a ſuppoſed Criminal. Priſons before Conviction are only for the ſafe Cuſtody of a Man, and not for Puniſhment; but his Impriſonment has not been ſo; which (if my Inſtructions are true) has been attended with ſuch unheard of Barbarities, and ſuch diſtinguiſhing Severities, as are a Shame and Reproach to every civiliz'd Nation. The Caſe of *Colledge* every one has thought hard and barbarous; but 'tis this Reverend Prelate's Misfortune to be diſtinguiſhed in this alſo, as well as in every Thing elſe: For that Caſe was before the Law allowed Counſel or Sollicitors to aſſiſt a Priſoner in his Defence, but now they are allowed by Law, and were actually and duly aſſigned to my Lord Biſhop; and yet part of his Defence, and part of his Evidence torn and taken from him. So that all theſe Things conſidered, his Lordſhip cannot eſcape without being a very great Sufferer, tho' your Lordſhips ſhould utterly reject this Bill.

Your Lordſhips will alſo conſider the Infirmities of Body, under which that great and noble Mind even now labours before you: which have render'd him almoſt uncapable of attending his Defence. Your Lordſhips will alſo conſider the Grief and Vexation it muſt be to appear as a Criminal before this Honourable Houſe, where he has ſo long ſat as a Judge, and under the Suſpicion of thoſe Crimes which are laid to his Charge; and how grievous it is for one of his Lordſhip's Character and Function, to be tax'd with Breaches of his Duty to God and Man, of Scandal to Religion, of Deſigns of overthrowing Church and State, in Favour of Popery: Who happens to be the only Clergyman in *England*, that ever thought it worth his while to draw his Pen in Defence of *Martin Luther*, the great Inſtrument of our Reformation from Popery, and who has upon all other Occaſions appear'd the moſt ſtrenuous Aſſertor of it. I might add much more of his Lordſhip's perſonal Merits, and of thoſe high Abilities ſo eminently conſpicuous in him; but that I know, it is ſome Kind of Violence to his Lordſhip to hear even thus much mention'd.

Yet ſuffer me to ſay, That if theſe Suggeſtions ſhould be carried into a Law, without any Degree of Evidence or Probability, but rather (as your Lordſhips will immediately hear) againſt the ſtrongeſt Evidence and Probabilities that are poſſible of the contrary: I ſay, if this Bill ſhould paſs on ſuch Circumſtances, whatever the preſent Age may think, his Caſe will be a ſtanding Mark of Reproach to it, and he will be the Wonder and the Pity of all ſucceeding Generations.

I ſhall add to your Lordſhip's Trouble but one Word more, in behalf of my ſelf: That your Lordſhips will pardon any Warmth of Temper, any unguarded Word or Expreſſion that I may have been guilty of in the Courſe of this long Defence, in a Caſe, which every *Engliſhman* naturally conſiders as his own, and therefore will in ſome Meaſure warm the moſt even Temper. And that this Learned (and whom I will now call Innocent) Prelate, will accept thoſe little Services I have been able to perform, and will pardon the many Failings, which I may already have been guilty of, in his neceſſary and moſt juſt Defence.

Mr. Wynne's Cloſe of the Lord Biſhop's Evidence, on *Saturday May* 11. 1723.

My Lords,

I ſhall beg your Patience to cloſe our Defence with an Obſervation or two on the Evidence that has been given by my Lord Biſhop; and I need take up the leſs of your Lordſhips Time, becauſe our Witneſſes have fully anſwered all I opened, and in many Things have exceeded my Inſtructions.

And for your Lordſhips clearer Apprehenſion of ſo many various and perplex'd Facts, I ſhall juſt recapitulate what I humbly conceive to have been the Subſtance of the Charge againſt my Lord Biſhop, and, as briefly as I can, ſtate the Evidence, which we have produced in Order to falſify and diſprove it.

The firſt and chief Accuſation againſt his Lordſhip, was founded on the Informations of *Philip Neyno*, and therefore the firſt Part of our Proof was as to his Credit. Your Lordſhips, I doubt not, remember the Purport of his Information read againſt us, and the many groſs Abſurdities and Inconſiſtencies in his other Informations read by us, and likewiſe how fully they have been all diſproved, and the Credit of them entirely blaſted, even from *Neyno*'s own Confeſſion, ſeveral Times repeated and confirmed by three unexceptionable Witneſſes.

Your Lordſhips have fully heard of the Terrors and Apprehenſions he was continually under; becauſe (as he himſelf expreſs'd it) he had given falſe Information againſt this Reverend Prelate, and ſo many other innocent Perſons. Your Lordſhips have heard the Inducements he had to give thoſe Informations, and how often he had declared his Intentions to eſcape, in Order to avoid the Puniſhment which he apprehended moſt juſtly due to him, becauſe he could not make out the Truth of them.

Two of thoſe Witneſſes (*Bingley* and *Skeen*) are ſtill in Cuſtody, and deſtitute almoſt of all the Neceſſaries of Life: I ſay, my Lords, they are ſtill in cloſe and ſtrict Cuſtody, and conſequently there could have been no Opportunity to lead or inſtruct them in what they ſhould ſay, or ſo much as to be apprized before-hand, (which ſurely would have been a reaſonable Liberty) whether they could ſay any Thing material or not; and we are only beholden to thoſe Lights which the Report of that Honourable Committee has afforded us. And all three of theſe Witneſſes utterly unknown to my Lord Biſhop both in Perſon and Reputation, as well as his Lordſhip is unknown to them. They have not converſed together for ſeveral Months, but yet perfectly conſiſtent with themſelves, and entirely ſupported and confirmed by each other. And all three declare, they had very early told, and frequently repeated, this Account of *Neyno* to their Fellow Priſoners and Acquaintance, as long as they were permitted to have Acceſs to them. Mr. *Skeen* being ask'd in relation to the Diſcourſe between him and Captain *Pancier*, as in the printed Depoſition of *Pancier*, *App. D.* 1. has denied on his Oath every Word of it. He ſays indeed that Captain *Pancier* us'd all his Endeavours by Treats and Entertainments to induce him to ſupport his Informations; but that he never gave him, nor could give him any Grounds to ſay any ſuch Thing of him.

We have ſhewn your Lordſhips, that Mr. *Stewart* in particular was ſo far from patching up, or contriving Evidence (as was objected to him by the Counſel for the Bill) after he had ſeen the Report and Appendix, that he had given this whole Account to ſeveral Perſons long before. For he ſays, the Things which *Neyno* told him were ſo ſurprizing, that he could not ſtifle them in his own Breaſt. Tho' your Lordſhips, I doubt not, obſerved with what Difficulty and Modeſty he was brought to ſpeak out in this publick Manner, where his Evidence ſeem'd to reflect on a great and Honourable Perſon.

Two of theſe Perſons have likewiſe been produced to your Lordſhips. To one of whom (Mr. *Gordon*) he told theſe Matters ſome Days even before *Neyno*'s Death; and to Mr. *Kynaſton* ſome conſiderable Time before the Meeting of the Parliament; and we could have called others to the ſame purpoſe, but that we were unwilling to give your Lordſhips further Trouble in a Matter which already had, as we thought, the fulleſt, the moſt ſatisfactory, and conſiſtent Evidence that could be.

The ſecond Head of Accuſation againſt this Reverend Prelate, was upon account of the three Letters of the 20th of *April*. The two firſt we before obſerved to your Lordſhips not to be criminal, if really deſign'd for and addreſſed to the Perſons ſuppoſed. The third we have likewiſe ſhewn by various Circum-

Circumſtances and Reaſonings, could not poſſibly be addreſs'd to the Pretender, whoever wrote it, or whomſoever elſe it might be wrote to.

And the Evidence offer'd to prove them to have been dictated or wrote by my Lord Biſhop, was firſt by the Subſcription of the common Name of *Jones*, which they would have to denote his Lordſhip. As to this, I doubt not, your Lordſhips remember, that even in the Cyphers and Letters that have been read, the Name of *Jones* is manifeſtly applied (as the Committee themſelves have obſerv'd) to many different Perſons; ſometimes to one, and ſometimes to another, as the Circumſtances there mentioned ſeem'd to give Occaſion, but cannot once in any Place, with Reaſon or Juſtice, be applied to my Lord Biſhop.

The next Proof that has been offer'd to your Lordſhips, to prove theſe Letters to have been dictated or wrote by the Biſhop's Privity, is, from the ill State of Health, the Death of his Lady, and the Preſent of a Dog; Circumſtances, which they ſay, are applicable to the Biſhop, and to him only.

That his Lordſhip did not, nor could poſſibly write or dictate theſe three Letters, we have laid before your Lordſhips ſuch a Proof, as the like hardly ever was before; and 'tis impoſſible, in my humble Apprehenſion, for a Negative to be more fully proved in any Caſe. Your Lordſhip's have heard the great Weakneſs and Inability of this Reverend Prelate at that very Time for all manner of Buſineſs and Converſation. No leſs than ſix, if not ſeven of his Servants, have ſpoken fully and poſitively to it, That his Lordſhip was not able, without their Help, to ſtir, turn in his Bed, or even to perform the common and ordinary Offices of Life. One would think, my Lords, ſuch melancholy Circumſtances, in themſelves, ſufficient to guard any Man from Suſpicion.

But the Witneſſes have gone much further; for they have told your Lordſhips, that no Stranger approached the Biſhop's Room all that *Time*; nor had any one been, for a conſiderable *time before and after the 20th of April*, under his Roof. Even ſome of thoſe Perſons that uſually were with my Lord Biſhop at other Times (as his Son, his Chaplain, and his Son's Tutor) happened then all to be abſent at the Election of *Weſtminſter* School.

One of thoſe Servants, who happens to be a Priſoner with his Lordſhip in the *Tower*, being asked, whether my Lord Biſhop had not put him in Mind of theſe Circumſtances, told your Lordſhips, that it was entirely his own Recollection, by caſually taking up the Report, after my Lord Biſhop was gone to Bed, and dipping on that Part of it, in which his Lordſhip is charg'd with having writ theſe three Letters. Upon which, the next Day (he ſaid) talking to his Fellow-Servant, and he agreeing to the very ſame Circumſtances, they acquainted the Biſhop with what they had read, and how they could, from their own Knowledge and Remembrance, falſify and diſprove that Circumſtance.

I muſt likewiſe crave Leave to obſerve to your Lordſhips, that four or five of theſe Servants that have ſpoke to theſe particular Facts and Times, are ſtill in Cuſtody, under ſeparate Meſſengers, without any Opportunity to converſe together, and were hardly to be found by my Lord Biſhop, when he had need of their Evidence; and yet every one of them have been perfectly conſiſtent with themſelves, and one with the other, and all equally poſitive.

The Biſhop's Coachman, your Lordſhips, I doubt not, remember, tho' now under another Influence, and called as Witneſs againſt his Maſter, confirmed what they ſaid, and was as poſitive and peremptory in his Teſtimony concerning this Matter, as far as the Nature of his Employment gave him an Opportunity to make ſuch Obſervations. And upon the whole, I may now with more Reaſon, and with greater Confidence, repeat my former Aſſertion, that it is impoſſible for them even to deviſe or frame any Scheme to prove his Lordſhip to have wrote or dictated theſe three Letters, but what will be actually diſproved and falſified by ſome Part of the Evidence.

Another Reaſon, by which 'tis proved that his Lordſhip wrote theſe three Letters, was, from the Subſcription of the Number 1378, to the Letter addreſſed to *Jackſon*. Which Number Mr. *Willes* (a Decypherer) ſays, denotes the proper Name or Title, of a Perſon, beginning with the Letter *R*. The little Time we have had to enquire into this Aſſertion, and your Lordſhips not permitting ſome Queſtions put by us to the Decypherer to be anſwered, won't enable us flatly to diſprove it. But with Submiſſion to your Lordſhips, it ſeems impoſſible to affirm even thus much, with any Degree of Certainty, and muſt be (as I before obſerved to your Lordſhips) Matter of Conjecture only; and it appears manifeſtly to your Lordſhips by ſeveral Paſſages occurring up and down in this Correſpondence, not yet decyphered, that either

Whether the Art is not ſo infallible, or that Mr. *Willes* is not ſo great an Artiſt, as he pretends to be.

But, my Lords, admitting ſuch a Number in this Cypher does really denote a Perſon's Name, or Title beginning with the Letter *R.* what a ſtrange and uncertain Proof is that, to fix a Charge of High Treaſon on the Biſhop, when there are other Perſons Names and Titles ſound like his, and many others which begin with the very ſame Letter; and this not to be admitted as Evidence in a minute or inconſiderable Circumſtance, but in the very Gift of the ſuppoſed Offence, in the principal Foundation of the Charge, in the only Letter that is criminal, and which is to magnify and improve the reſt into High Treaſon.

Another way of proving theſe Letters to have been dictated by the Biſhop, was, becauſe another, ſuppoſed to be an Anſwer to this, mentions the Preſent of a Dog. I need not here repeat what Mr. *Kelly* himſelf has conſtantly ſaid in his Examination, becauſe, your Lordſhips, I doubt not, remember what Mrs. *Barnes* ſaid; that Mr. *Kelly* indeed ſometimes told her of another Dog that was for the Biſhop, but that ſhe always apprehended that Dog, which ſhe had in her Poſſeſſion was deſigned for her, and never heard of any other Dog that did come from *France*; ſhe owns, that ſhe never received any one Meſſage from the Biſhop about it, but ſtill kept it, when it was recovered, as her own, as long as it lived; and tho' his Lordſhip never had, nor loved a Dog in his Life, yet it would have been natural, and good Manners to the Perſon that ſent it, eſpecially if ſo conſiderable a Perſon as is ſuppoſed, to have made now and then ſome little Enquiry about it, if my Lord Biſhop had really known any thing of the Dog.

But we have ſhewn your Lordſhips by the ſolemn Atteſtation of Mr. *Birmingham*, the *French* Surgeon, that he was the Perſon who gave this Dog (in *March* 22.) to Mr. *Kelly* for Madam *Barnes*, of whom he had received Civilities in *London*, and for no other Perſon, nor with any other Intent. He likewiſe ſays, that he never received any ſuch thing as a Dog, or Meſſage from Lord *Mar* (as alledged in the Report) never had any the leaſt Thought of the Biſhop of *Rocheſter*, or his Lady, much leſs of making either the one or the other (to both of which he was utterly unknown) any ſuch Preſent.

Your Lordſhips obſerve this to have been a ſolemn notarial Act upon Oath, of a Perſon not only reputed, but atteſted likewiſe by the Lord of the Seigneury, to have been a legal Notary, and to have exercis'd his Office as ſuch for ſome time. That the Teſtimony of ſuch a Perſon beyond Sea is a good and unexceptionable Proof in every Caſe, I need not ſay; or that it has been often allow'd here, where no other is to be had, nor any other Method to have the Benefit of a Man's Teſtimony that is beyond Sea. And our Witneſs has told your Lordſhips that he has frequently tranſlated ſuch Inſtruments. That he believes it to be the Notary's Hand-writing, and the publick Seal of his Office. I need not, my Lords, have ſaid thus much, for in all Events it muſt ſurely have been of more Weight in your Lordſhips Judgments, than the Extract of an Information given by a Perſon, infamous in his Character, abſurd and inconſiſtent in all he ſaid, and without being ſigned or ſworn to, even by that Perſon.

2 *Rolls. Rep.* 346. *Law of Ev.* 3.

But yet this Affidavit of Mr. *Birmingham* has the more Credit, becauſe his Majeſty's own Reſident at *Paris* (Mr. *Crawford*) has been pleas'd to examine him about this Matter (being employ'd by him in his Profeſſion as a Surgeon) and he has confirm'd the ſame Account to him, which has been likewiſe tranſmitted and read to your Lordſhips.

Another way of proving my Lord Biſhop to have been concerned in theſe Letters, was from the Hand-writing, which is ſuppos'd to have been *Kelly*'s, and he is ſuppoſed to have been his Lordſhip's Secretary in theſe Matters. But both theſe Allegations, we think, with Submiſſion to your Lordſhips, are ſtill utterly deſtitute of any proper or ſatisfactory Proof.

I before obſerv'd to your Lordſhips, that the firſt time the Clerks of the Poſt-Office have made any Depoſition about the ſimilitude of the Hand-writing, was four and eight Months after they had ſeen the Original Letters, which is a little of the lateſt, ſo exactly to remember all the little Strokes and Turnings of a Pen, by which the identity or diverſity of a Hand can only be made out. That *Malone*, the Footman of Mrs. *Barnes*, was never called upon for his Teſtimony till *January* laſt, that is, nine Months after he had ſeen any of *Kelly*'s Writing, and conſequently not then very able (if ever he was) to form a d gment of it.

I have already obſerved to your Lordſhips, that this was the firſt, and the only Inſtance, that any Evidence of the Similitude of Hands was ever admitted,

admitted, but where the Papers pretended to be in the ſame Hand were produced and compared in Court; which is ſo far from being the preſent Caſe, that the Clerks of the Poſt-Office never had any Opportunity of comparing the Original of the 20th of *Auguſt*, with any one of the three Originals of the 20th of *April*, or with any one of the intermediate Letters, which they affirm to have been in the ſame Hand; ſo that they are made the abſolute and ultimate Judges of this Matter, without any Poſſibility on our Side of detecting any caſual or wilful Miſtake.

And I would not again repeat an Obſervation I have before made to your Lordſhips, that a great Part of theſe Letters are in Figures, and how much more difficult it is to diſtinguiſh the Hand of one writing in Figures from Words and Syllables in Length; becauſe we have ſhewn your Lordſhips, by three poſitive Witneſſes (well acquainted with Mr. *Kelly*'s Writing, one of them above 20 Years, and his School-Fellow) that the only original Letter of the 20th of *Auguſt*, ſtopp'd at the Poſt-Office, as a Sample to the reſt (and which is the only Foundation upon which thoſe Clerks have affirmed theſe three Letters to have been *Kelly*'s Writing) really and in fact, was not his, nor like it. This, my Lords, we have fully proved by three Witneſſes; and as a Demonſtration of what they ſaid, they ſhew'd your Lordſhips, among a Variety of Papers produced to them at your Bar, that they could at once diſtinguiſh which was *Kelly*'s Hand, which was any thing like it, and which was not.

Rep. Pag. 42, 45. Append. E. 26.

We have likewiſe produced to your Lordſhips the ſolemn Atteſtation, on Oath, of *Alexander Gordon*, Junior, the Son, Banker at *Bologne*, that no ſuch Packet of Letters ever came to his Hands, as mentioned by the Counſel for the Bill; and conſequently he could not deliver any ſuch to *Talbot*, (who they ſay, called for them at *Bologne*.) He further depoſes, that he never had any Buſineſs or Intercourſe with *Kelly* or *Johnſon*, nor ever had Acquaintance with any Perſon ſo called, in his whole Life.

Append. E. 26.

And we have proved to your Lordſhips, that *James Talbot*, the tall black Man, deſcribed in the Letter printed in the Appendix, and who is ſuppoſed to have been the Perſon that called upon *Alexander Gordon* at *Bologne* for this Packet, was ſo far from doing it, at the Time ſuppoſed, that he was at *London* that very Day, as appears by the unexceptionable Teſtimony of *Edward Croſton*, his Shoemaker, and by the Entries of his Shop-book, to whom he accidentally paid a Bill upon that very Day, at his Houſe in *London*.

We have likewiſe ſhewn your Lordſhips, by two Witneſſes, Mrs. *Kilborn*, and her Maid *Anne Ellis*, that Mr. *Kelly* was at her Houſe in *London*, on the 20th of *April*, (the very Day upon which my Lord Biſhop is ſuppoſed to have dictated theſe Letters to him,) and by a great Variety of Evidence, impoſſible to eſcape any one's Memory, that my Lord Biſhop was ill in Bed, at *Bromley* in *Kent*, and *Quod non datur actio in diſtans*, is an Axiom of Reaſon as well as of Philoſophy.

And I muſt humbly ſubmit it to your Lordſhips, that it has not yet, in the leaſt, appeared by any Shadow of Evidence, that Mr. *Kelly* ever was employed by my Lord Biſhop to carry on a Correſpondence; that he wrote any one Letter for the Biſhop, upon that, or upon any other Occaſion whatſoever.

That Paſſage in the Letter to *Weſton*, that ſeems to give Countenance to ſuch a Suppoſition, the learned Counſel for the Bill told us yeſterday they had waved, and were angry that we ſhould offer to diſprove that which they had not proved. But, with Submiſſion to your Lordſhips, tho' they have been pleaſed to wave that Part of the Charge againſt my Lord Biſhop, yet as it makes no ſmall or inconſiderable Appearance in the Report of that Honourable Houſe, and will be ſo handed down to Poſterity; we thought it proper to give an Anſwer to it; and, we hope, it has been to your Lordſhips Satisfaction, and ſtill in your Memory.

The next thing was the Letter to *Dubois*, and I confeſs my ſelf at ſome Loſs to know for what Purpoſe that was read in Evidence to your Lordſhips; for the Counſel for the Bill have not, as yet, made any particular and direct Uſe or Application of that Piece of Evidence, and therefore I ſhall ſubmit it to your Lordſhips upon the Obſervations I before made on it.

There was indeed ſome of your Lordſhips Time ſpent in comparing the Seal of that Letter, with that which happen'd to be taken on my Lord Biſhop's Servant at the *Tower*; if it was intended as any Proof, I cannot at preſent judge; however, we thought it proper to follow them in the Courſe and Manner of their Proof, and your Lordſhips Yeſterday have fully heard the Danger and Uncertainty of admitting ſuch a Proof. Firſt, you have had ſome Account from Mr. *Eraſmus Lewis*, of the known Practice of one *Brockett*, who was able to counterfeit any Man's Hand or Seal in ſuch a

Manner

Manner, that even the Perſon, (whoſe Hand or Seal it was) ſhould not be able to diſtinguiſh it from his own.

Then we produced to your Lordſhips two Seal-gravers, who fully atteſted the ſame thing. Mr. *Atkins* ſaid, that he himſelf could make ſuch an Impreſſion, ſo as not to be diſtinguiſh'd by any Artiſt, and give it the very ſame Luſtre. That he could even take an Impreſſion from a broken Seal, and tho' there would at firſt neceſſarily be ſome little Flaw in it, yet he ſaid he could mend it, and then make ſuch an Impreſſion from it, that even an Artiſt could not diſcover it from the Original.

Mr. *Johnſon*, another eminent Seal-graver, likewiſe told your Lordſhips, that he could do the ſame Thing: In particular, That he had once ſuch an Impreſſion taken in Paſte by one Mr. *Wiſembergh*, and from that he made another Impreſſion, ſo perfect and exact, that Mr. *Wiſembergh* himſelf could not diſtinguiſh one from the other: But as to the Seals of theſe two Letters, he doubted very much whether they were made by the ſame Seal or not; and from ſome little Strokes in the Head, that were very viſible to any one, tho' not ſo eaſy to be expreſſed, he rather inclin'd to believe, that they could not be made from one and the ſame Seal.

And when your Lordſhips were pleaſed to enquire of them, How ſuch a Thing was practicable? They did not cover themſelves (as their Decypherer did) by ſaying, It would diſcover the Secrets of their Art; but frankly told your Lordſhips, the very Manner and Method of doing it.

Their own Seal-graver, Mr. *Chriſtian*, owned, That this might be done, altho' he had never done it: And in the Experiment made on Mr. *Raulus*, their other Seal-graver, he was once plainly in the wrong, as well as once in the right. And it manifeſtly appears from every one of their Teſtimonies, that this Practice of taking Impreſſions is very eaſy. And, as one of my Noble Lords informed the Houſe, his Footman could do it as well as any of them; and, as your Lordſhips Yeſterday obſerved, even to deceive Mr. *Raulus* himſelf, who, they ſay, is ſo great an Artiſt. And therefore, my Lords, it is a moſt dangerous Sort of Proof, and too uncertain at the beſt, to receive any judicial Countenance in a criminal Matter.

So that I muſt humbly inſiſt, that this Part of the Charge againſt my Lord Biſhop has not been proved any better than the former; and that when your Lordſhips do conſider the Evidence that has been given on the one Side as well as on the other, as to this particular Charge, we hope you will be of Opinion, that there is no juſt or reaſonable Ground to preſume, that theſe Three Letters were wrote by Mr. *Kelly*, and much leſs that they were dictated by my Lord Biſhop.

The next general Charge againſt this Reverend Prelate, was, the Receiving of Two Letters from abroad, in Relation to this Conſpiracy. The Council indeed for the Bill have waved the Letter ſigned *Digby*, addreſs'd to *Weſton*, and (as I apprehended from them laſt Night) did not now pretend to prove any Thing concerning the Biſhop, under the Name of *Weſton*.

Neither have they as yet pretended to prove, that the other Letter from *Motfield* to *Illington* ever came to his Lordſhip's Hands, or in whoſe Hand-writing it was wrote; tho' if it were the Lord *Mar*'s (as it is ſuppoſed) many of your Lordſhips muſt have been well acquainted with it. Nor has it been yet ſaid, that my Lord Biſhop ever returned any Anſwer to it.

And as we have now proved, (and fully too, we apprehend) the Letters of the 20th of *April*, to which this is ſuppoſed to have been an Anſwer, to be a meer Fiction or Impoſition upon the Biſhop; this, which is deſigned as an Anſwer to it, muſt likewiſe fall to the Ground, as Part of the ſame Contrivance.

The next and laſt general Charge ariſes from the Coincidencies of Times and Names in the intercepted Correſpondence, the more readily to induce your Lordſhips Belief, that my Lord Biſhop was really meant by that Correſpondence.

Some of them I accounted for before, as Truths publickly known, but turned by ignorant and malicious Correſpondents to ill Purpoſes, or elſe as abſolute Falſities, and manifeſt Miſtakes.

We have ſhown your Lordſhips by various Reaſons, that the fictitious Names ſuppoſed to denote my Lord Biſhop, cannot be applicable to him, with any Colour, Truth or Decency; that there is a great Doubt to be made, whether many others of thoſe fictitious Names were really intended for the Perſons ſuppoſed to be denoted by them; and eſpecially, that *Jackſon*, to whom the Letter of the 20th of *April* is addreſſed, we have proved by various Arguments, and even from thoſe Lights the Committee have afforded us, could not poſſibly mean the Pretender, whomſoever elſe it may mean; and conſequently that that Letter, (if it were wrote by *Kelly*, and dictated by the Biſhop) cannot be High Treaſon.

And as to the Articles of Times, and the Accounts of my Lord Biſhop's coming and going, it muſt be owned, they are ſometimes right, but as often wrong.

There is no doubt, but the Correſpondents on this Side the Water, whoever they were, and whether out of Malice or Vanity, or out of any other Inducements, apprized themſelves as well as they could of the Biſhop's Motions to and fro, in order to give the better Colour or Probability to what they ſaid of him. But yet it has happened unluckily to them, as your Lordſhips have heard, that out of Six or Seven Inſtances occurring in theſe Letters, Two only are true; Two of them may be doubted whether true or falſe, becauſe ambiguouſly expreſſed; but Three of them are groſs Miſtakes, as appears even by the Accounts of their own Witneſſes.

And the Miſtakes are the more remarkable, becauſe they all affirm the Biſhop to have been in the Country, when he poſitively was not; whereas it was Ten to One, but that the meer Gueſſes of a Stranger at that Time of the Year had been true; and the rather, becauſe *his* Lordſhip was really in the Country Ten Days to One that he was in Town all laſt Summer.

There is another Thing remains for me yet to ſpeak to, and that is the Intimacy of my Lord Biſhop with Mr. *Kelly*; which was likewiſe thrown in to ſwell the Number of Circumſtances, and as another weighty Argument to induce your Lordſhips Belief of the foregoing Matters.

But has any Thing appeared to your Lordſhips like it, even upon their own Evidence? Firſt, a Chairman is brought to tell your Lordſhips, that he carry'd Mr. *Kelly* to the Deanery Three or Four Times about Four Years ago, but the Biſhop was not once at Home. And a Porter ſays, he carry'd Two Letters from *Kelly* to the Biſhop; one of them about *Chriſtmas* laſt was Twelve-Month, and the other Letter ſome Time before that, but received no Anſwer in Writing, nor Meſſage, but only his Service to Mr. *Kelly*. But there is one extraordinary Circumſtance, which ſhows him, I confeſs, to be a very willing Evidence, though not ſo very likely and credible; that is, that this Porter, dirty as he muſt be in the Midſt of Winter, deliver'd his Meſſage to the Biſhop in his Bed-Chamber.

And *Malone*, the Perſon that uſually attended Mr. *Kelly*, and went on his Errands, was asked to the ſame Purpoſe; and one might have expected that he ſhould have given ſome Account of it, and had been often employed on Errands to and from the Deanery: But I ſubmit it to your Lordſhips Memory, whether he did not ſay, that he never was at the Deanery in his Life-time, nor did know to this Day where it ſtood?

Mrs. *Killborn*, with whom Mr. *Kelly* had lodged a conſiderable Time, ſays, ſhe remembers a Meſſage once came to *Kelly* from the Biſhop; but poſitively denies, that my Lord Biſhop's Coach ever came to fetch Mr. *Kelly* at her Houſe, as that Honourable Committee have been pleaſed to affirm in their Report. And I appeal to your Lordſhips Memory, Whether Mrs. *Barnes*, whom the Counſel for the Bill think ſo credible a Witneſs in ſome other reſpects, and with whom it muſt be confeſs'd *Kelly* frequently lodged, was not equally poſitive in this Matter, and that ſhe did not believe there could be any Friendſhip or Intercourſe between the Biſhop and Mr. *Kelly* without her knowing of it.

Thus the ſuppoſed Intimacy and great Acquaintance between my Lord Biſhop and Mr. *Kelly* ſtand upon their own Evidence. And I beſeech your Lordſhips to conſider, what Sort or Degree of Proof all this can poſſibly amount to. But we have ſhown your Lordſhips the direct contrary, by no leſs than Ten Witneſſes, Servants to my Lord Biſhop, ſome or other of which were always with him, whether he was in Town or in the Country, and every one of them has lived with his Lordſhip above Two Years; and they ſay, as it were with one Voice,

that

that they don't remember any ſuch Perſon or Name as *Kelly* or *Johnſon* coming to the Houſe; as they muſt have remember'd him, they ſay, if he had been frequent in his Viſits or Meſſages, and ſome of them ſay, they uſually wrote down the Names of thoſe that did come; and the Coachman in particular, who has liv'd Four Years with his Lordſhip, and appears now as Evidence againſt the Biſhop, and therefore cannot be ſuppos'd partial to him in his Teſtimony, is yet as poſitive and peremptory, that he never ſaw Mr. *Kelly*, or *Johnſon*, at his Maſter's Houſe, in all his Time. And being carry'd to the *Tower* by a Meſſenger, to ſee if he could recollect his Face, then frankly own'd, He had never ſeen his Face before. And being aſked, How he could pretend to know all Perſons that came to the Houſe, whoſe Buſineſs was at the Stables? He told your Lordſhips, That he was as often in the Houſe, us'd to wait at the Table when Company was there; and that let him come which Way he would, he ſhould have ſeen him coming or going, or have heard of him in the Family, if he was a Perſon that had frequented his Maſter's Houſe.

Some of the other Servants likewiſe ſpoke as fully to theſe Circumſtances.

We have likewiſe ſhewn your Lordſhips by Mr. *Pope*, who has been for theſe Two or Three laſt Years, the moſt conſtant Companion of his Lordſhip's Hours; Two or Three Days, he ſays, almoſt in every Week, and an Hour or two almoſt in every of thoſe Days: That his Lordſhip generally ſat in one Room, which I think was his Bed-Chamber; that he was admitted to him at all Hours, and into all Companies, and never found the Diſcourſe change at his coming in. That his Lordſhip never in the leaſt diſcover'd any Thoughts or Intentions like thoſe now charged upon him; but had heard occaſionally many Things drop from the Biſhop, of a Tendency directly contrary: And to this we might have called many others, if it were neceſſary.

We were likewiſe ready to lay before your Lordſhips, ſeveral laborious and intricate Searches, ſeveral Publick Buildings, and Controverſies in Matters of Literature, with different Perſons, which my Lord Biſhop was engaged in laſt Summer; and would have been a full Employment for ſome Mens whole Lives: But your Lordſhips did not think it neceſſary; being (as we hope) fully ſatisfied and convinced of my Lord Biſhop's Innocency, by that Variety of Proof which we had before made.

There are, my Lords, ſome other Obſervations that might be made; but have been, I doubt not, already much better taken notice of by the Learned Gentleman that ſpoke before me; And I think this is the Subſtance and Purport of the Evidence that has been hitherto offer'd on both Sides.

What the Iſſue or Succeſs of this long Hearing may be, I know not; That is in your Lordſhips Pleaſure only to Determine; to Acquit, or to Condemn: But I hope you will ſay, We find in him no Fault at all.

The Proof which has been againſt the Biſhop, (if it can deſerve that Name) has neither been ſuch as is reaſonable in it ſelf, nor agreeable to the known Rules and Proceedings of Law; but chiefly by Probabilities, Circumſtances, Conjectures and Suppoſitions: Whereas we have encounter'd and diſprov'd even them, by far greater Probabilities, much ſtronger Circumſtances, and alſo by ſuch Evidence, as would be convincing and ſufficient in any Court of Law or Equity within the Kingdom.

And, upon the whole, I hope I may venture to affirm, That there does not now remain the leaſt Suſpicion of the Charge brought againſt the Biſhop; not even a Suſpicion of a Suſpicion of High-Treaſon; not one probable Probability, or one preſumptive Preſumption: I mean, That there is not now remaining before your Lordſhips, the leaſt Degree of Probability, or the very loweſt Sort of Preſumption that is known in Law: And therefore, ſhall humbly conclude with the ſame Prayer Sir *Conſtantine Phipps* has made before me, That your Lordſhips will reject this Bill.

F I N I S.

N. B. Immediately after the foregoing Defence, the Lord Biſhop of *Rocheſter* made his own Speech, which will be publiſhed in due Time. And the *Monday* following Mr. *Reeves*, one of the Counſel for the Bill made his Reply, and produced ſome new Evidence. To which the Counſel for the ſaid Lord Biſhop were permitted to rejoyn; and then Mr. *Wearge*, the other Counſel for the Bill, concluded.

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At the BAR of the

HOUSE of LORDS,

On Saturday the 11th of *May*, 1723.

In his DEFENCE againſt the BILL then depending, for Inflicting Pains and Penalties upon him.

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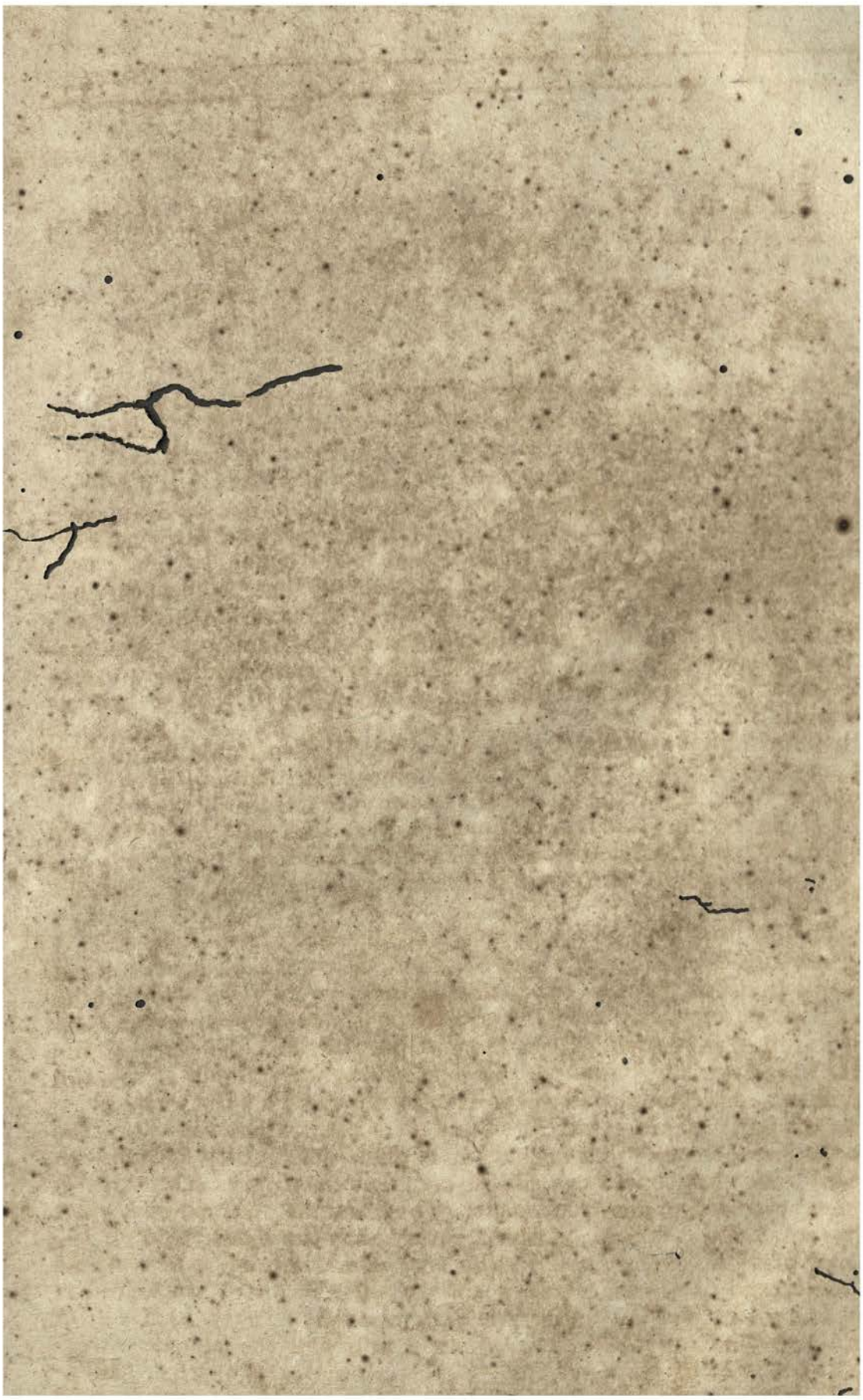

The SPEECH *of* Francis *late Lord Biſhop of* Rocheſter.

My Lords,

I Have been under a very long and cloſe Confinement, and have been treated with ſuch Severity, and ſo great Indignity, as I believe no Priſoner in the *Tower* of my Age, and Function, and Rank, ever was. By which Means, what Strength and Uſe of my Limbs I had when I was firſt committed in *Auguſt* laſt, is now ſo far declined, that I am very unfit to make my Defence againſt a Bill of ſuch an extraordinary nature.

The great Weakneſs of Body and Mind under which I labour, ſuch Uſage, ſuch Hardſhips, ſuch Inſults as I have undergone, might have broken a more reſolute Spirit and much ſtronger Conſtitution than falls to to my Share. Your Lordſhips were pleaſed to permit me to appear before the Houſe of Commons, if I thought fit, leſt that ſhould be turned to my Diſadvantage, as, in fact, the Counſel for the Bill have done their utmoſt towards it.

I ſhould not have thought to decline any Occaſion of juſtifying myſelf; but I crave leave to tell your Lordſhips ſome of the Reaſons why I did not appear there, and make uſe of the Leave your Lordſhips gave me.

March 11. by the Houſe of Commons it was thus reſolved, "That it "appears to this Houſe, that *Francis*, Lord Biſhop of *Rocheſter*, was "principally concerned in forming, directing, and carrying on a deteſta-"ble Conſpiracy, *&c.*"

Upon duly weighing which Reſolution, and the Copy of the Bill, I found not any thing charged in the Bill, but what was fully contained and previouſly reſolved in this Vote; and therefore whatſoever ſhould have been offered on my behalf to that Houſe, would have been an expreſs Contradiction to it. And what Hopes I could have of Succeſs in ſuch an Attempt, I need not ſay; what they ſent me, was the Preamble of the Bill only, which they could not alter, conſiſtent with what they had reſolved.

The Bill itſelf was to inflict Pains and Penalties, which followed, but there was no room to object againſt any of thoſe which they had not then declared; they have ſince been added, and ſent up to your Lordſhips in like manner, without any Oath made, or any criminal Act proved againſt me by any living Witneſs. And is a Perſon, thus ſentenced below, to be deprived of all his Preferment, and his very Function, and to be a perpetual Exile, and to be render'd incapable of any Office and Employment? to be one whom no Man muſt correſpond with by Letters, Meſſages, or otherwiſe? And, my Lords, one who is a Biſhop of the Church of *England*, and a Lord of Parliament?

It is the firſt Inſtance wherein a Member of this Houſe hath been ſo treated and prejudged, and (as I have once before ſaid to your Lordſhips) I pray God it may be the laſt, and that ſuch Precedents in this Kingdom may not be multiplied in After-Times.

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My Counſel have amply done their part, by arguing the Points of Law, by explaining and enforcing the Evidence, and ſhowing the little Colour, Appearance, and Shadow of Proofs againſt me, (permit me to call them ſo) by anſwering what hath been offer'd againſt me, and by ſetting out the Conſequence which ſuch a Bill, founded and carry'd on in ſuch a manner, and which enacts ſuch ſevere Penalties, muſt and will be attended with.

Yet it becomes me to ſay ſomething for myſelf, leſt my Silence be conſtrued Conſciouſneſs of Guilt, or at leaſt an Unwillingneſs to enter into Matters of ſo dark and perplexed, ſo nice and tender a nature, as if I was not able, or did not care to clear and explain myſelf, and rather choſe to leave it to the Management of others: I thank God I am under no ſuch Reſtraint, and can ſpeak to your Lordſhips on this Subject with great freedom and plainneſs.

But before I proceed, I beg leave that I may repreſent to your Lordſhips ſome particular Hardſhips under which I have laboured:

The firſt is reading Extracts of anonymous Letters, without ſuffering any other parts of the ſame Letters, tho' relating to the ſame Subject, to be read.——Another is,——Excuſing the Decypherers from anſwering Queſtions asked by me, and which I thought neceſſary for my Defence, leſt they ſhould reveal their Art.——The next is, not ſuffering me to be anſwered by the Clerks of the Poſt-Office, leſt the Secrets of that Office ſhould be diſcovered. Another, was not ſuffering a Perſon, who had been at leaſt ten Years out of the Secretary's Office, to anſwer any Queſtions which came to his knowledge by being ten Years ago in that Office.

Another, is reading Examinations neither dated, ſigned, or ſworn to.

Another, is reading Letters ſuppoſed to be criminal, writ in another Man's Hand, and ſuppoſed to be dictated by me, without offering any Proof, that I either dictated them, or was privy to them.

Another, is not allowing me Copies of the Decypher'd Letters, tho' petitioned for, till the Tryal was ſo far advanced, and I ſo employed and weakned by it, that I had not ſufficient time to conſider them. Another, is not allowing me to read out of the Collection of Papers before the Houſe any part of them, in order to diſcharge myſelf, but what hath been read by Clerks——And all this in a Proceeding where the Counſel for the Bill profeſs they have no legal Evidence, and that they are not to be confined to the Rules of any Court of Law or Equity, tho' as often as it is for their Service, they conſtantly ſhelter themſelves under it.

My Lords, theſe are the Hardſhips which I previouſly mention, and only mention, and humbly lay before your Lordſhips.

By your Lordſhips leave, I proceed now to make that Defence, as well as I am able to make it in the Condition of Health I am now in, humbly praying your Lordſhips, if I find myſelf in any degree ſinking under it, that you will indulge me, and allow me a little time to go on; becauſe the general Charge of the Bill, is, That I have been deeply concerned in forming, directing, and carrying on a wicked and deteſtable Conſpiracy, and was a principal Actor therein.

The Charge is divided into two Heads:

Firſt, That I traitorouſly conſulted and correſponded with divers Perſons, to raiſe an Inſurrection, *&c.* in this Kingdom, to procure Foreign Forces to invade it, *&c.*

Secondly, That I traitorouſly correſponded with the ſame intent with Perſons employed, *&c.* But as neither part of this Charge hath been made good by the Counſel for the Bill, nor have they proved, nor attempted to prove me at one Conſultation, nor is there any thing tends towards ſuch a Proof, except the exploded Story of the *Burford* Club, and

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two or three Hear-ſay Informations which were mentioned of my Lord *Strafford*, &c. and others to be concerned in the Management of this Affair. I have met all theſe Lords I own it, but at different times; and upon the beſt Recollection I can make, I never was in all my Life with any three of them at once, unleſs perhaps about ſome general Matters or Affairs depending in Parliament. The Earl of *Strafford* hath viſited me, and I have, when in health, dined with him once at his Houſe. At my Lord *North*'s Table I have not eat; tho' I have great Honour for him, yet I never had any Intimacy with him, eſpecially ſince the Affair of the Dormitory, wherein he appeared ſo againſt me, that I certainly had loſt the Cauſe, had not his Affairs called him to *Holland*.

Lawſon hath ſworn, that this Lord did often viſit me at *Bromley*, but in truth he never was there above twice or thrice in all his life-time.

I have not been once theſe two Years with Lord *Orrery* on any Buſineſs whatſoever; we twice dined together at the Houſe of a Perſon, whoſe Name if I ſhould mention, your Lordſhips would not think there was any harm at all in dining there. Sir *Henry Goring* I never ſaw in all my life, till he ſaw me at *St. James's*, and he was but once at *Bromley*; and the Occaſion of his coming to me, was his placing four Sons at *Weſtminſter*-School, and intending to breed up ſome of them to the Goſpel. The laſt time I ſaw Sir *Harry Goring*, was about twelve Months ago, when I promiſed to bring down one of his Sons to be upon the Foundation; and I ſhall be ſorry if I can't be as good as my word.

Your Lordſhips will excuſe me for being ſo particular, when you conſider how dangerous the Charge is, and how fit it is to clear the Perſons charged, from ſuch miſchievous Correſpondence; eſpecially ſince it is with theſe, and theſe only that I have been ſpeaking of, it is inſinuated that I have held Conſultations with, to forward the Conſpiracy.

The firſt is an Intent, and indeed a Conſpiracy, without a Conſultation.

How that too hath been made good, your Lordſhips will obſerve, that there is not one Overt-Act, or Circumſtance of Time or Place, mentioned, proved, or alledged. I have not therefore conſulted or conſpired at home.

The next, and the only material Part of the Charge, is correſponding abroad with the Pretender, &c.

A high and heinous Accuſation ſtrongly aſſerted, much inſiſted upon, but how maintained, is the Queſtion?

The true State of this part of my Charge, as well and as fully as I can recollect, is this, (I will not in any degree diſſemble before you:) 1*ſt*, That I did the 20th *April*, 1722. dictate three Letters to Mr. *Dillon*, the late Lord *Marr*, and to the *Pretender* himſelf, under the feigned Names of *Chivers*, *Muſgrave*, and *Jackſon*; to which Letters the Names of *Jones*, *Illington*, and *1378*, were all by my Direction ſubſcribed.

Secondly, That afterwards two Letters in anſwer to theſe two ſent to *Marr* and *Dillon*, one dated *May* 11*th*, and the other *July* the 25th, under the feigned Names of *Motfield* and *Digby*, were intercepted.

Thirdly, There is certain intercepted Correſpondence between the Pretender's Agents abroad and *Kelly* here carry'd on by him, and that I was at the Head of it, and am anſwerable for what it contains.

This is the Subſtance of my Charge, all other particular Circumſtances are made uſe of, as they thought would give Light and Strength to one or other of thoſe Articles.

As to the firſt of theſe Points, *that I did dictate theſe Letters*;

That it could not be poſſible that I dictated theſe Letters, hath been made out to your Lordſhips by ſuch a Concurrence of Evidence, ſo clear, full, and legal, as I perſuade myſelf can have left no Doubt remaining upon any candid and indifferent Perſon; a plain Matter of Fact, ſupported by

by ſuch Teſtimony, cannot be overthrown by little Gueſſes and conſequential Surmiſes.

My Lords, I was under the known Difficulty of proving a Negative, which in many Caſes is not to be done; but it ſo happens in this Caſe, that peculiar Circumſtances attend it as to point of Time. My being diſabled in my Chamber, and attended before and after that time by ſome of my Servants, and receiving frequent Meſſages from others: The agreeing Teſtimony of my Servants, that no Stranger came near me about that time, and for ſome time before and after, and the full Evidence of the School at *Weſtminſter*, hath enabled my ſeveral Servants to recollect the Time, and to furniſh ſuch a Proof of my Innocence in this matter, as is not to be miſtaken, and the Clearneſs of the Impoſſibility of it.

They ſwear that they believe theſe three Letters to have been in the Hand-writing of Mr. *Kelly*, my ſuppoſed Amanuenſis: your Lordſhips will remember, that their Oaths were at four Months diſtance from the time of ſeeing thoſe Letters; during the whole Series of which time, it never hath appeared that they have compared one Original with another, and the only Original, as a Specimen, hath been proved, at your Lordſhips Bar, not to be the Hand-writing of Mr. *Kelly*; and be pleaſed to remember the very Suppoſition of Mr. *Kelly*'s being my Secretary, or any ways intimate with me, hath been fully ſworn to be falſe.

If it be ſaid, Who then writ theſe Letters, and with what View were they writ? The Anſwer to this is obvious, my being here at your Lordſhips Bar ſufficiently explains it. It is enough to prove that I did not write or dictate them, and I have proved it abundantly. Let but any momentous Part of the Charge againſt me be made out with half the Evidence, and I will ſubmit without any Diſpute; eight or nine ſuch Witneſſes would have born down the Evidence of one or two that had ſworn.

But where there is none on the one Side, but all on the other Side who appear, and that give direct poſitive Evidence, can your Lordſhips deliberate a moment for the Reaſon of giving your Judgment, which ought always, in doubtful Caſes, to lean to the doubtful Side; and ſo taking this Point as it ſtands, and if it be ſo, there is an End of the whole matter, for all other Inſinuations, feigned Names, and obſcure Paſſages in Letters, depending upon this, muſt fall together.

As to the other Part of the Accuſation, when it is ſaid, the Letter to *Jackſon* was a Letter to the *Pretender*, I have nothing to do with it; he that writ the Letter, when known, will beſt be able, and moſt concerned, to diſprove it.

Since this Objection carries a very odd Sound, I ſhall briefly ſhew your Lordſhips how that ſtands: *Jackſon*, in a Cypher of *Plunkett*'s, is ſaid to denote the *Pretender*; therefore in a Letter, ſuppoſed to be dictated by him, and put into Letters (Cyphers) by *Plunkett*, conſiſting of one hundred and fifty Names, of which not one is uſed in any of the Letters attributed to Mr. *Kelly*, three or four of theſe Names are uſed by Perſons ſuppoſed to have writ to Mr. *Kelly* from Abroad, but not one of them is uſed by him; nor doth *Jackſon* ever, in his part of the Correſpondence, ſtand for the *Pretender*, but he is always under other Appellations: nay, *Plunkett* himſelf, in all his Letters writ in decyphered Names, never ſtiles the Pretender *Jackſon*, but either *Joſeph*, or *Jepſon*.——Why ſhould a Name, uſed in *Kelly*'s Correſpondence, be explained by *Plunkett*'s Cypher, when *Kelly* appears to be no ways acquainted with him, and *Plunkett* himſelf did never dictate to him? I forbear Repetition; I only add, that in this Caſe there is nothing that may not be proved.

The Letter to *Dubois* there is little ſaid of, becauſe there is no uſe made of it; it is charged in the Report as a Letter which I had received from abroad.

abroad. The Tables are now turned, and I myſelf deſigned to have ſent this Letter to a feigned Correſpondent, but kept it among my Papers under my Seal: For what end? the Letter itſelf is an errant Deluſion; Why, to furniſh Proof, which is much wanted, of my receiving Letters that were directed *Jones* and *Illington*; and it is very ſtrange I, who am repreſented as being ſo very cautious, ſhould be ſo negligent in this, and preſerve ſomething that is of no uſe, and yet might hurt me ſo much when diſcover'd.

It is abſurd to think, that I ſhould by that means mention the Name of my Correſpondent, and mention the Name of *Johnſon*, which the Committee of the Lower Houſe obſerve was conſtantly with me.

I know not what farther can be ſaid for this Matter, till the Counſel have further explain'd it, and ſhow'd what uſe they make of this Letter, which hath given your Lordſhips ſo much Trouble, and which I own I do not comprehend.

Here is ſtill a fifth Letter, which I have acknowledg'd to be my Hand; that which was taken on my Servant. Mr. *Reeves* hath made ſome Obſervations on it; I have taken Minutes of them, and I think they are theſe: He obſerves that the Biſhop doth not in his Letter inſiſt on his Innocence in general, but conſiders only what Evidence doth affect him.

It comes out at laſt for whom my Letter was deſigned, and I think that an Anſwer to Mr. *Reeves's* Obſervations, and I ſhall explain it no further. He obſerves, *tho I clear myſelf from the Knowledge of Layer, Neynoe, &c.* there I ſay nothing of *Kelly*.

The Gentleman I deſigned the Letter for, knows it was in anſwer to one wrote to me about *Layer*, and will ſwear it himſelf, if there was room for it.

The third Obſervation is, where ſpeaking of myſelf, I ſay, 'If I cannot 'ward the Blow, I muſt be a Priſoner ſome Years without Remedy;' from which he was to infer, not in that good-natur'd way he generally did, my Meaning muſt be, that I was conſcious of Guilt.

I apprehended an Impeachment would have been lodged and never proſecuted, as in the Caſe of my Lord *Danby* and the Earl of *Oxford*, and there I ſhould have lain without Tryal, and without Bread.

The ſecond Article of my Charge, is the two Letters from *Mar* and *Dillon*, under the feigned Name of *Motfield* and *Digby*, which were intercepted. One of theſe they have dropt.

That I received them, is not pretended; both Letters, tho they copied, without a criminal Expreſſion or Word of Buſineſs in either of them, they would have affected me in ſome degree, if received by me, and I was the Perſon as is ſuppoſed to have writ the Letters to which they are Anſwers. That I uſed to have any Correſpondence, is that proved? Is not one and the ſame neceſſary in order to aſcertain the Charge?

Any Man that pleaſes may write to me, and take thoſe Names upon him; I am not to anſwer for that, unleſs I have appeared to receive them, and kept up the Correſpondence.

The Letter from *Motfield*, dated 11 *May*, cannot be reaſonably thought to have been wrote with any other View than that of being intercepted, and of fixing upon me the Letter of *April* 20*th*.

This Letter is committed to the common Poſt-Office, and ſent upon this Errand; one may doubt who writ it, but one cannot doubt with what Deſign it was writ: Your Lordſhips Wiſdom will ſee thro thoſe malicious Diſguiſes, and not make me account for Letters which have been banded to and fro between two unknown Correſpondents, on a Deſign to raiſe a Suſpicion of a third Perſon, altogether a Stranger to what is writ. And here I deſire that the Obſervation made by one of my Counſel may not be forgot;

forgot; that is, all the intercepted Letters from abroad, that Perſons that lay hid under ſecret Names are diſcover'd by doing of ſuch Deeds, and by ſuch Circumſtances as will faſten thoſe Names upon them, tho the Committee were at a Gueſs, yet they were often at a Loſs.

In my Caſe the fictitious Names applied to me are often attended with ſuch Deſcriptions and Circumſtances, as very naturally lead thoſe that offer theſe Letters to fix them on me; the Writers of them uſe all their Art not to diſguiſe, but to open the thing, and ſeem to be in pain leſt they ſhould not be well enough underſtood.

This being contrary to the Method of Reſerves in all other Caſes, ſmells ſtrong of a malicious Deſign.

The Letter of *July 25th*, from *Digby* to *Weſton*, is not well contrived as it ſhould have been, yet I am to be underſtood by it, becauſe of the Circumſtances I was then under, which the Writer was appriſed of.

Theſe are the only two Inſtances of Letters ſuppoſed to be writ from abroad: They are not conſiſtent: Shall they affect me in ſo high a manner?

It remains to be conſidered in the third place, whether there was a ſupported Correſpondence between the Pretender and his Agents and Mr. *Kelly* here? Whether I was at the Head of it, and am juſtly to anſwer that I am not? Mr. *Kelly*, I hear, hath owned at your Bar, and declared, which I alſo declare, I never knew a Line of any Letter he writ to Foreign Parts.

I meddle not with what concerns him any further than when it may affect me.

The chief Part is the Preſent of the Dog, the Account of that is in a Letter to *Hatfield*, dated *May* 5. not ſigned; in which are theſe Words, *The little Dog was ſent ten Days ago, and ordered to be delivered to you*: but there is no Intimation in this, or any other Letter from abroad, that this Preſent was intended for me.

In two Letters from hence, by whom writ it doth not appear, ſome body is meant under the different Names of Mr. *Jones* and Mr. *Illington*, in ſuch maner as deſigned for the ſame Perſon; but Circumſtances are neither applicable to myſelf or my Wife, or me particularly. The Letter dated *May 7th*, from *Hatfield to Muſgrave*, which being five Days after the Burial of my Wife, cannot mean her; and being but five Days after, it can as little mean me: So that the Writer of this Letter muſt either have known nothing of my Family-Affairs, or if he did, muſt diſſemble his Knowledge of them, to raiſe a ſuſpicion, and in either Caſe what he ſays is not to be regarded. The Surgeon and Mr. *Kelly* only knew any thing of this matter, and they can beſt clear it.

Mrs. *Barnes*, ſhe varies, and ſometimes the Dog is for me, and ſometimes for her.

As for myſelf, I never asked for, received, or ſaw this Preſent, nor know any thing of it, but from common Fame; nor have I to this day had any Meſſage or Letter whatſoever concerning it. The End of this Deſign ſeems to be, to point me out by the Name of *Jones* and *Illington*, ſubſcribed to the Letters of *April* 20th, by uſing them again in relation to this Preſent.

And perhaps they are not much in the wrong to think, that one intercepted Dog ſhould be of as much uſe as ten intercepted Letters. Both Contrivances then muſt have ſucceeded, had I not been able to prove that thoſe Letters were not with my Order or Knowledge; and therefore the Uſe of their Names, in ſubſequent Letters, is a Continuance of the Fraud, and this obviouſly runs through the whole of the Correſpondence; but wherever the Names of *Jones* and *Illington* are, they are uſed in applying them to me, becauſe they are the ſame.

Theſe Points have not only been deny'd, but diſprov'd with all Manner of Credence and Clearneſs.

My Council have ſhew'd, that all theſe ſuſpicious Correſpondencies are to the laſt Degree abſurd to apply to me, and no one would apply them: That I could not order the Letters of the 20th of *April*, to which the Names of *Jones*, *&c.* are ſubſcrib'd, I think is plain, and then the Evidence falls or depends upon it.

As to the Journies to and from *Bromley*, where the Priſoner *Kelly* had frequent Acceſs to me, and therefore I might probably dictate thoſe Letters, the Council for the Bill have not open'd themſelves on that Head; but your Lordſhips have heard it made out, and becauſe it is material I ſhall repeat it.

(Here *Wood*'s Examination was read.)

By all theſe Accounts, nothing could have offer'd eaſier for the Perſons themſelves to manage here, in getting an Account of my Neighbours in order to render the Contrivance more plauſible.

That Mr. *Kelly* is no Stranger to me I own; but that he is in any Degree intimate with me, or frequently ſaw me, I deny; and what Evidence is there from them to the contrary; or how is this ſolemn Denial at your Bar contradicted?

The Chairman ſays, He carry'd him twice or thrice to the Deanery three or four Years ago; and this *Brown*, the Chairman, he ſwears, he carry'd me once in three or four Years Time. I believe he may. The Porter he ſays, *That he brought a Letter and ſome Stockings from Kelly to me.* The Foundation of this Story is true, for Mr. *Kelly* uſed to furniſh me with Stockings and Gloves; not but that the Circumſtance of the Porter coming up to my Bedchamber at that dirty Time of the Year, is very extraordinary; and even this Evidence owns, he was never ſent by me to him.

Now, on the other Side, there is the Evidence of almoſt all my Servants, who have, upon Oath, atteſted, that they do not know either the Name, or the Face of Mr. *Kelly*, which could not poſſibly be, did he uſe frequently to reſort to me. Such a ſlight Acquaintance as I had with him, could not be any Temptation to enter into Secrets with him of ſuch a dangerous Conſequence as theſe are, which the Report inſinuates to have paſs'd between us; however, Suſpicion is not now the Buſineſs of Proof; they that prove ſomething, may be allow'd to ſuppoſe more; they that prove nothing, have no Right to indulge their Suſpicions and Conjectures to the Ruin of any Man: Twenty Probabilities, allow'd to be ſuch, are not equal to any one Matter of Fact well atteſted; it may ſtrengthen the Fact, but cannot ſupport it. They cannot be Evidence themſelves, becauſe one Probability may be ſet againſt another.

I uſe this Diſtinction between Evidence in Law, and reaſonable Evidence, becauſe the Council for the Bill have aſſerted ſomething like it.

I own I always thought the Publick Law of the State the Publick Reaſon of the State, and whatever might be reaſonable Evidence; whatever it is in another Country, yet, in this Country, no Evidence can be reaſonable that is not legal: But I aſk, What Sort of Evidence, either in Reaſon or Law, is brought againſt me? How am I prov'd to conſult and correſpond to raiſe an Inſurrection againſt his Majeſty and his Kingdom, and to procure a foreign Force to invade the ſame in Favour of the Pretender?

How am I prov'd, in the ſecond Place, to have correſponded with the ſame Pretender, and with Perſons employ'd by him? Is one Article of theſe Charges made out againſt me with any Colour of Reaſon? Suppoſitions without Proof, Suppoſitions diſprov'd, and ſhew'd to be vain, and unjuſt.

If the Proof in theſe Caſes want Strength, can the Hearſay of *Neynoe* ſupply the Want of Proof, and render it valid; ſince *Neynoe* pretends, for ought that appears, not to have known any thing of me; he only heard *Kelly* ſay ſo, and Mr. *Kelly* denies it; and there is, I think, no Reaſon why ſuch a dead

Evidence

Evidence ſhould effect me, or *Kelly* himſelf, much leſs me through him. Was *Neynoe* alive, and *Kelly* dead, and incapable of contradicting what *Neynoe* ſaid, I believe what *Neynoe* ſaid would not be of any Weight; beſides, what *Neynoe* dead ſays, and *Kelly* now alive denies, ought not to have any Force.

Concerning Hearſay Evidence in General, and concerning the due Regard to it, I humbly deſire your Lordſhips, that a Paſſage may be read out of Sir *John Fenwick*'s Bill of Attainder. (The whole Preamble read.)

My Lords, I humbly deſir'd to have this read, becauſe I thought it would take away a Diſtinction between legal and Parliamentary Evidence; that what was not legal might be Parliamentary. I believe here is a Condemnation of him by Parliament; therefore, I think, the Condemnation of him muſt be by Parliamentary Evidence. It is recited in this Act as one of the Inducements that mov'd the King, Lords, and Commons to paſs that Act, that Sir *John Fenwick* had contriv'd and fram'd ſeveral Papers, *&c.* only by Hearſay.

Shall that be accepted in this Parliament for Evidence, which is declar'd the only Motive of attainting a Man in another? If it was judg'd hard in Sir *John Fenwick*'s Caſe to charge a Man by Hearſay, can the being thus charg'd be any Proof againſt me? Sure the Houſe of Commons in 96, that brought that in, would have ſo thought, nor would thoſe of your Lordſhips conſented here; or elſewhere, to have paſs'd it.

As for thoſe that did not conſent, I will venture to ſay, I am exceedingly puzzled to know why they did not oppoſe Sir *John Fenwick*, but favour'd his Caſe, and are yet againſt me. Is the Guilt objected to me, if prov'd, in any Meaſure like his? Or is there any Compariſon between the Proof againſt him and me?

As to the Paper and Information given in by *Neynoe*, and printed in the Appendix, it is plain he was drawn in to have ſworn backward or forward, to have affirm'd or deny'd any thing. He knew a certain Lord of the Council, that gave me Notice of my being taken up ſome Days before it happen'd. He knew what Uſe and Purpoſe the Proteſts of your Lordſhips were chiefly deſign'd for and calculated; and it appears by his Paper that was taken in his Pocket after his Death, that he had undertaken to give a poſitive Account, and deſign'd either to aſk or receive ſuch a Sum of Money.

That he was the late Earl-Marſhal's Bedfellow for ſeveral Months, and had drawn up Heads for Memorials to be deliver'd to the Regent; but he had kept no Copies of theſe Heads, or foul Draughts, which would have ſhewn whether they were given in to promote it, or diſcover it in either: the Evidence of being then employ'd, would have been of Service; but they have not been able to produce a Line of ſuch Heads or Memorials, yet the Report of the Houſe of Commons, upon the Baſis of theſe Memorials, build the whole Fabrick. He knew that I went under the Name of *Jones* and *Illington*, and undoubtedly he knew Mr. *Dubois*: If the Scheme of Writing that Letter myſelf had been ſeen, he would have found out a Reaſon for the Correſpondence; and 500*l.* would have made him affirm, that he carry'd the Letter himſelf. He knew the Pretender's particular Opinion of me, or of any Body elſe; that he rely'd on Advices from me: How did he know that? He told him ſo. Who told him? It is not ſuppos'd Mr. *Kelly* had it from himſelf, but from Perſons of high Eſtate, and that were near the Pretender.

Let me ſpeak, my Lords, as always I hope I ſhall, with that Modeſty as becomes Juſtice, but yet with Freedom to you.

Hath nothing been open'd to you concerning this Man's Character, and his ſecret Tranſactions? Is it poſſible to believe this Pretender to Secrecy, could have had or ſhall he ſtill have any Degree of Weight, that threw away his Life, rather than venture to ſtand to the Truth of what he had ſaid before his Death, and then he could have been contradicted, or Pangs of Conſcience might have made him unſay what he had ſaid; but a dead Man can retract nothing;

nothing; what he hath writ, he hath writ the Accuſation; muſt ſtand juſt as it did, as far as it concerns him; and we are depriv'd of the Advantage, which Truth and Remorſe once extorted, and would have again extorted from him; however, I would have been glad to have had all that ever this Wretch ſaid, and would hope that by comparing of the ſeveral Stories, which he ſeveral Times told, ſome Light might have been gain'd, which is now wanted: —— Particularly by the Knowledge of what he ſaid freely and voluntarily, when he was in good Humour, and before his rough Uſage, or his Return from *Rome* had frighted him; but I think we have the Evidence only of a few of the laſt Days of his Life, all the preceding Time is Blank; yet himſelf, he underwent frequent Examinations, but they were not, it ſeems, ſo maturely weighed and digeſted, as to be thought worth the committing to writing; but he is gone to his Place, and hath anſwer'd for what he hath ſaid at another Tribunal. I deſire not to diſturb his Aſhes, farther than what is neceſſary for my Defence.

Your Lordſhips will obſerve firſt, the Inconſiſtency of ſome Part of the Charge. Secondly, the Improbability of it. The Report takes Notice of three ſeveral Periods, or Stages of Time, that by Conſequence of ſome Memorials from the Regent, it did not take Place; the firſt was, during the Election; the ſecond was, the King's going to *Hanover*; and the third was, the breaking up of the Camp; there is not the Hint as to the laſt of theſe three Deſigns, in any of his Papers, and in the Recital of the Bill it is mention'd as the third Part of the Plot, and the moſt deteſtable Part of the Deſign, to lay violent Hands on his Majeſty and his Family.

There is not the leaſt Colour of Proof, as to the firſt Part of the Conſpiracy, which was to take Place at the Election; their only Reaſon for that, is from a Paſſage, where it is ſaid, that the preſent Opportunity is elaps'd, that is, the Opportunity of the Election.

I ſhall recite the intercepted Paſſage, as it lyes there, and make ſome Reflections on it: *Notwithſtanding the Opportunity is elaps'd*, (ſays the Writer to *Jackſon*) *I agree with you, another may offer before the End of the Year, tho' not perhaps every Way ſo favourable.*

The Committee ſuppoſe this Letter to be from *Kelly*, and dictated by me, and they ſuppoſe the Words to refer to Time, and from thoſe Suppoſitions infer that I knew ſomething of it. On the contrary, I ſhall on the two firſt Suppoſitions, ſhew the Impoſſibility of it; if this was a Letter from me, or from any other Perſon, dictated by me to the Pretender, I muſt write as in Anſwer to ſome Letter ſent from them to me, in repeating the Expreſſion; and his Opinion in the Letter, muſt have been founded on Intelligence before receiv'd: This Intelligence, conſidering the Diſtance between *London* and *Rome*, muſt have been communicated two Months, if not longer, before the Date of this Letter; if we go back two Months, and talk of the Election being elaps'd, it was not begun; conſequently that Opportunity in the Letter could not poſſibly mean the Time of the Election; and if ſo, it is impoſſible that it ſhould be a Letter to the Pretender, that can conſiſt with the Charge of the Perſon's writing it *April* 1720.

If it be a Letter writ in good Earneſt, it appears they had given over all Thoughts at that Time: *I agree with you* ſays he, *another may offer before the End of the Year*; and yet he finds ſome Words in a Letter writ ten Days after, wherein under the Name of *Jones*, I am made to be deeply concern'd in a Conſpiracy.

How can this be conſiſtent, if I writ and directed that Letter, and was engag'd in the ſecond Part of the Conſpiracy?

Both cannot be true, both may be falſe; and I hope I have ſatisfy'd your Lordſhips, that as I did not dictate the one, ſo I was no Ways concern'd in the other.

Can

Can any one believe, that under the ſad Circumſtance of being afflicted by the Death of my Wife, I ſhould be concern'd in an Affair of this dangerous Nature? Was that a Time to provide for a Stranger? And for a Man unleſs under the Power of Prejudice, to believe ſuch an Expreſſion, or that I had ſuch a Conjecture: I forbear former Inſtances.

I ſhall now conſider the Improbability, as well as Inconſiſtency of the Charge brought againſt me without poſitive Proof. You will allow me to anſwer the Indictment in the ſame Manner as it is laid.

Is it probable that if I were engag'd in any ſuch Deſign, no Footſteps ſhould be ſeen of any Correſpondence I had with the late Duke of *Ormond*, to whom, of all Perſons abroad, I was beſt known, and to whom I had the greateſt Regard, and ſtill have all the Regard that is conſiſtent with my Duty to my King and Country?

Is it probable that I would chooſe rather to engage in ſuch Deſign with two Perſons, one of which I never ſaw, and the other ſcarce acquainted with?

Did I not know, what all the World thinks, that he had left the Pretender ſeveral Years, and had a Penſion abroad? Is this a Seaſon for me to enter into Conferences with him about reſtoring the Pretender, and do this not by Meſſages but by Letters, not ſent by Meſſengers but by the common Poſt? That by thus writing to him by the Poſt, I ſhould adviſe him after the ſame Manner to write to me, and by theſe Means furniſh Opportunities, towards detecting the Perſons and bring myſelf into Danger? How doth that Charge of Caution and Secrecy belong to me? Muſt not I have been raſh to have laid myſelf open in ſuch a Manner? This is an inconſiſtent Scheme, the other a bold Aſſertion. Is it probable when attending the Sick Bed of my Wife, and expecting her Death, not daily but hourly, that I ſhould enter into Negotiations of this kind?

There was no Need of diſpatching any of thoſe three Letters, merely to excuſe my not writing, the Circumſtances of my Family had been a ſufficient Apology, and more effectual.

Is it probable that when I was carrying on publick Buildings of various Kinds, at *Weſtminſter*, and at *Bromley*, conſulting all the Books from the *Weſtminſter* Foundation, engaging in a Correſpondence with learned Men, about Subjects of Divinity; that at that very Time, I ſhould be carrying on a Conſpiracy? Thoſe that maintain ſuch Thoughts without Reaſon, may alſo condemn me without Argument.

Is it probable that I ſhould hold, meet, and conſult, in forming and forwarding this Correſpondence with no Body, and no where?

That I who always liv'd at Home, and only at Dinner ever ſtirr'd out of my Chamber; receiv'd all Perſons that viſited me, and was deny'd to none, ſhould have an Opportunity to be ſo engag'd? And if I had, that none of my Domeſticks and Friends ſhould ever obſerve any Appearance of any ſuch Thing? No Evidence among my Papers, tho' they were all ſeiz'd at both my Houſes, and confining all my Servants, but one now for about 10 or 11 Weeks, ſearching him twice in the Tower, and ſearching my ſelf, nothing of Conſequence appears, nor is any one living Witneſs that charges me with any thing that is really true.

Is it probable, that I ſhould form and direct a Conſpiracy, and carry it on with any Succceſs, that am not us'd to Arms, which I am no more acquainted with, than with the Perſons employ'd on thoſe Occaſions? My Way of Life hath not led me to converſe with ſuch Men and ſuch Matters, except on the Occaſion of meeting in Parliament, but in a Council of War, I never was. Have I yet in any Inſtance of my Life meddled remarkably out of my own Sphere, in Affairs foreign to my Buſineſs and Character? I might have been thought to have been too active in my proper Station and Buſineſs; but I was never charg'd with War, nor any Ways inform'd in the Art of it.

Is

Is it probable, that Perſons concern'd in ſuch Military Scheme, (if any ſuch be form'd by Men of the Sword that apply to ſuch Buſineſs) ſhould be puniſh'd without any Proof?

And muſt I, whoſe Way of Life is ſet at the greateſt Diſtance from ſuch Perſons, and from the very Suſpicion of being concerned with them, ſuffer all the Pains and Penalties ſhort of Death, which the Parliament can inflict for a ſuppos'd I know not what, and what I don't to this Day apprehend.

Here is a Plot of a Year or two ſtanding to ſubvert the Government with an arm'd Force; an Invaſion from abroad; an Inſurrection at Home; juſt when ripe for Execution it is diſcover'd; and 12 Months after the Contrivance of this Scheme, no Conſultation appears, no Men correſponding together, no Proviſion to be given, no Arms or Officers provided, not a Man in Arms, and the poor Biſhop hath done all this.

What could tempt me to ſtep thus out of my Way? Was it Ambition and a Deſire of climbing into a higher Station in the Church? There is not a Man in my Office farther remov'd from this than I am; I have a hundred Times ſaid, and ſincerely reſolv'd, I would have been nothing more than I was, at a Time when I little thought of being any thing before, and I can give an Inſtance of this Kind if I thought proper.

Was Money my Aim? I always deſpis'd it too much perhaps, conſidering I had Occaſion for it; for out of a poor Biſhoprick of 500 *l. per Ann.* I have laid out 800 *l.* I took not one Shilling for Dilapidations, and the reſt of my little Income has been ſpent as is neceſſary, as I am a Biſhop. Nor do I repent of theſe Expences now, not doubting in the leaſt, but that God who hath liberally provided for me hitherto, will ſtill do it, and on his good Providence I ſecurely rely.

Was I influenc'd by any Diſlike of the eſtabliſh'd Religion, and ſecretly inclin'd towards a Church of greater Pomp and Power? I have, my Lords, ever ſince I knew what Popery was, oppos'd it, and the better I knew it, the more I diſlik'd it.

I begun my Study in Divinity, when the Popiſh Controverſy grew hot with that immortal Book of *Tillotſon*'s, when he undertook the Proteſtant Cauſe in general, and as ſuch I eſteem'd him above all.

You will pardon me, my Lords, if I mention one Thing:

Thirty Years ago, I writ in Defence of *Martin Luther*, and have preach'd, expreſs'd, and writ to that Purpoſe from my Infancy, and whatever happens to me, I will ſuffer any thing, and will, by God's Grace, burn at the Stake, rather than depart from any material Point of the Proteſtant Religion, as profeſs'd in the Church of *England*.

Once more: Can I be ſuppos'd to have a Favour to Arbitrary Power? The whole Tenor of my Life hath been otherwiſe: I was always a Friend of the Liberty of the Subject, and to the beſt of my Power conſtantly maintain'd it: I may have been thought miſtaken in the Meaſures I took to ſupport it.

But matters not by what Party I was called, ſo my Actions are uniform.

To return to the Point: The Charge brought againſt me in the Manner it is brought, is improbable: If I could be guilty of it, I muſt have acted under a Spirit of Infatuation; yet I have not been ever thought an Idiot or a Madman.

My Lords, as to the Pains and Penalties contain'd in this Bill, they are great and grievous, beyond Example in their Nature and Direction.

I am here, my Lords, and have been here expecting an immediate Tryal. I have, my Lords, declin'd no Impeachment. The Correſpondence with the Earl of——was made Treaſon, but with me 'tis only Felony, if there is one Witneſs to prove it. He was allow'd the Converſation of his Children, by the

the expreſs Word of the Act: Mine are not ſo much as to write ſo as to be ſent to me.

What is moſt particular in my Caſe, I will repeat diſtinctly, that my Reverend Brethren may hear it. I am render'd incapable of uſing or exerciſing any Office, Function, Authority, or Power Eccleſiaſtical, not only in his Majeſty's Dominions, but any where elſe: Very hard! Such Spiritual Power as is not deriv'd from Men, but God himſelf, ſhould be taken from me.

My Lords, I inſiſt on my Innocence; that I am not guilty; and if I am not prov'd ſo, your Lordſhips will thus judge; if otherwiſe, I perſwade myſelf I ſhall find ſome Degree of Mercy.

You will not ſtrip a Man of his Subſtance, and then ſend him where he cannot ſubſiſt; you will not ſend him among Strangers, and then hinder others from performing Humanity to him; you will not give him leſs Time to order his Affairs, and depart the Kingdom, than the Bill hath taken in paſſing through both Houſes.

You will not diveſt him of all his Preferments, the chiefeſt Privileges he hath left, becauſe of his Confinement; nor render him to any of his poor Fellow-Subjects, leſs uſeful.

That Great Man I laſt mention'd, carry'd a great Fortune with him into foreign Parts, and had the Languages; was well acquainted abroad: The Reverſe of all this is my Caſe; I indeed am like him in nothing but his Innocence, and his Puniſhment. It is in no Man's Power to make us differ in the one, but 'tis in your Lordſhip's Power to make us differ *widely in the other*, and I hope your Lordſhips will do it.

But to ſum up the Arguments: It hath been frequently obſerv'd, that the higher the Crimes are, the fuller the Proofs ought to be. Here is a Charge of High Treaſon brought againſt me, with no Evidence at all.

My Lords pardon me, what is not Evidence at Law, can never be made ſo by any Power on Earth; for the Law that requir'd the Evidence, is as much the Law of the Land, as that which declares the Crime.

It is equally unjuſt to declare any Proof legal, becauſe of my Proſecution: As extraordinary would it be, to declare the Acts themſelves, *ex poſt facto*.

Never was there a Charge of ſo high a Nature, and ſo weakly prov'd!

A Perſon dead, ſo that there is not an Opportunity to falſify him, by contradicting him, ſupported not by any one Evidence, not by any one Proof of any Thing that hath been writ or receiv'd by me, not even by any one criminal Word, prov'd to have been ſpoken by me; but by intercepting Letters and Correſpondence, in which appears not the leaſt Certainty.

Some of thoſe Letters, ſhewn to Perſons, with a Deſign to faſten ſomething on them; others writ in Cyphers, and fictitious Names, throwing out dark and abſtruſe Hints of what Perſons went by thoſe Names, ſometimes true and ſometimes doubtful, and often falſe, who continue all the while Strangers to the whole Tranſaction, and never makes the Diſcovery, 'till he feels and finds it advancing itſelf towards him: My Lords, this is my Caſe in ſhort.

I have a hard Taſk to prove my Innocence: Shall I ſtand committed before your Lordſhips on ſuch an Evidence as this? The Hearſay of an Hearſay, a Party dead, and that deny'd what he ſaid; by ſtrange and obſcure Paſſages and fictitious Names in Letters; by the Conjectures of Decypherers, without any Opportunity given me of examining and looking into the Truth of their Decyphering; by the Depoſitions of Poſt-Office Clerks about the Similitude of Hands; their Depoſitions made at diſtant Times, and without comparing any one of the Originals; by a ſtrange Interpretation of them, for nothing more, I am perſwaded, can be made of the Arguments, than what is call'd the intercepted Correſpondence.

Shall

Shall I, my Lords, be depriv'd of all that is dear to me, and in the Circumſtances I am in, ſcarce able to bear up, and by ſuch an Evidence as would not be admitted in any other Cauſe, or in any other Court.

And ſhall it be receiv'd againſt a Biſhop of this Church, and a Member of this Houſe? God forbid. Give me Leave to make Mention of a Text in Holy Writ: *Againſt an Elder receive not an Accuſation, but by two or three Witneſſes.* It is not ſaid, Condemn him not upon an Accuſation, *&c.* but receive it not; and I am ſomething more than an Elder, and ſhall an Accuſation againſt me be countenanced, without any one Inſtance of Proof to ſupport it?

This is not directly Matter of Eccleſiaſtical Conſtitution: There you read, one Witneſs ſhall not riſe up againſt an Elder; but here, at the Mouth of two Witneſſes, or three Witneſſes, ſhall the Matter be eſtabliſh'd: and as this Rule was tranſlated in the State of the Church, People always thought fit to follow it.

Shall I be the firſt Biſhop in this Church, condemn'd upon Conjecture, on fictitious Names and obſcure Paſſages in Letters, inſtead of two or three Witneſſes.

Will not others endeavour to make the ſame Precedent, and deſire the ſaid Influence of it to ſucceeding Ages, and even concur in ſuch an Act, in order to render me incapable of uſing or exerciſing any Power or Authority, *&c.* Is this good Divinity, or good Policy?

As to the Juſtice of the *Legiſlature*, in ſome Reſpects it hath as great a Power as the *Sovereign Legiſlator of the Univerſe*; but he can do nothing unjuſt. But tho' there are no *Limits to be ſet to a Parliament*, yet they are generally thought to incline themſelves, to guide their Proceedings in Criminal Caſes, according to the known Law.

The Parliament may order a Criminal to be tortur'd, Who can ſay they cannot? But they never did, nor ever will, I hope; becauſe Torture is uſed in other Countries, and not known here.

Is it not torturing to inflict Pains and Penalties on Perſons ſuſpected of Guilt not plainly prov'd guilty? It is not much unlike it. The Parliament may, if they pleaſe, as well as upon a Bill of perpetual Impriſonments, upon a Bill of perpetual Exile reſerve to the Crown a Power to determine the one as well as the other. They have ſo enacted it in the one Caſe, but they have not enacted it in the other. The Law knows nothing of ſuch abſolute perpetual Impriſonments.

The Law may, in like Manner, condemn a Man on a Charge of Accumulated and Conſtructive Treaſon. They did ſo in the Caſe of the great Lord *Strafford*, and that by Accumulated and Conſtructive Proof of ſuch Treaſon, that is, by ſuch Proofs, and well interpreted, as plainly to communicate Light and Strength to each other, and ſo to have all Force, without the Formality of Evidence. Was ſuch Proof ever admitted by any one, to deprive his Fellow Subject of his Fortune, of his Eſtate, his Friends, and Country, and ſend him in his old Age, without Language or Hope, without Employment to get the Neceſſaries of Life, to ſtarve: I ſay again, God forbid.

My Ruin is not of that Moment to any Number of Men, to make it worth their while to violate, or own to ſeem to violate their Conſtitution in any Degree, which they ought to preſerve againſt any Attempts whatſoever.

But where once ſuch extraordinary Steps as theſe are taken, and we depart from the fixed Rules and Forms of Juſtice, and try untrodden Paths, no Man knows where he ſhall ſtop.

Tho' I am worthy of no Regard, tho' whatſoever is done to me may, for that Reaſon, be look'd upon to be juſt, yet your Lordſhips will have ſome Regard to your own laſting Intereſt, and that of Poſterity.

This is a Proceeding with which the Conſtitution is not acquainted, which, under the Pretence of ſupporting it, will at laſt effectually deſtroy it.

For

For God's Sake lay aſide theſe Extraordinary Proceedings, ſet not up theſe new and dangerous Proceedings; I for my Part will voluntarily and chearfully go into perpetual Baniſhment, and pleaſe my ſelf that I am, in ſome Meaſure, the Occaſion of putting a Stop to ſuch Precedents, and doing ſome Good to my Country, and will live, wherever I am, praying for its Proſperity; and do, with the Word of Father *Paul* to the State of *Venice*, ſay, *Eſto perpetuo:* It is not my departing from it; let me depart, and let my Country be fix'd upon the immoveable Foundation of Law and Juſtice, and ſtand for ever.

I have, my Lords, taken up much of your Lordſhips Time, yet I muſt beg your Attention a little longer.

Some Part of my Charge hath been diſproved by direct and full Evidence, particularly of writing the Letters of the 20th of *April*, or that I knew who wrote them, which I utterly deny that I ever did or as yet do know. Other Parts of the Charge there are, which are not capable of ſuch Diſproof, or indeed require it; there I reſt. But, my Lords, there is ſtill a Way allow'd of vindicating my ſelf. It is generally Negative; that is, by proteſting and declaring my Innocence to your Lordſhips, in the moſt deliberate, ſerious, and ſolemn Manner; and appealing to God the Searcher of Hearts, as to the Truth of what I ſay, as I do it in what follows: I am charg'd in the Report with directing a Correſpondence to Mr. *Kelly*; but I ſolemnly deny that I ever, directly or indirectly, ſaw a ſingle Line of any of their Letters 'till I met with them in Print: Nor was the Contents of any of them communicated to me. I do in the next Place deny, that I was ever privy to any Memorial to be drawn up to be deliver'd to the Regent: Nor was I ever acquainted with any Account to be made on the King's going to *Hanover*, or at the Time of the Election: Nor did I hear the leaſt Rumour of the Plot to take Place after the breaking up of the Camp, 'till ſome Time after Mr. *Layer*'s Committment. I do with the ſame Solemnity declare, that I never collected, remitted, receiv'd, or aſk'd any Money of any Man to facilitate theſe Deſigns; nor was I ever acquainted with, or had any Remittances whatſoever from any of thoſe Perſons. That I never remitted or drew any Declaration, Minutes, or Paper, in the Name of the Pretender, as is expreſly charg'd upon me. And that I never knew of any Comiſſion iſſu'd, Preparation of Arms, Officers, or Soldiers, or the Methods taken to procure any, in order to raiſe an Inſurrection in theſe Kingdoms. All this I declare to be true, and will ſo declare to the laſt Gaſp of my Breath.

And I am ſure, the further your Lordſhips examine into this Affair, the more you will be convinced of my Innocency. Yet they contain all the Capital Articles of which I am accuſed in the Report of the Houſe of Commons.

Had the Charge been as fully prov'd as aſcertain'd, it had been vain to make Proteſtations of my Innocence, tho' never ſo ſolemn.

But as the Charge is ſupported by the ſlighteſt Probabilities, and which cannot be diſprov'd in any Inſtance, without proving a Negative; allow the ſolemn Aſſeverations of a Man in Behalf of his own Innocence to have their due Weight, and I aſk no more, than that they may have as much Influence with your Lordſhips as they have Truth.

If in any Account there ſhall ſtill be thought by your Lordſhips to be any ſeeming Strength in the Proofs againſt me: If by your Lordſhips Judgments, ſpringing from unknown Motives, I ſhall be thought to be guilty: If for any Reaſons, or Neceſſity of State, in Wiſdom and Juſtice, of which I am no competent Judge: If your Lordſhips ſhall proceed to paſs this Bill againſt me: I ſhall diſpoſe my ſelf quietly and tacitly to ſubmit to what you do: God's Will be done: Naked came I out of my Mother's Womb, and naked ſhall I return; and whether he gives or takes away, bleſſed be the Name of the Lord.

FINIS.

REMARKS

ON THE LATE

Biſhop of *ROCHESTER's*

SPEECH

AT THE

BAR of the *HOUSE of LORDS.*

BEING

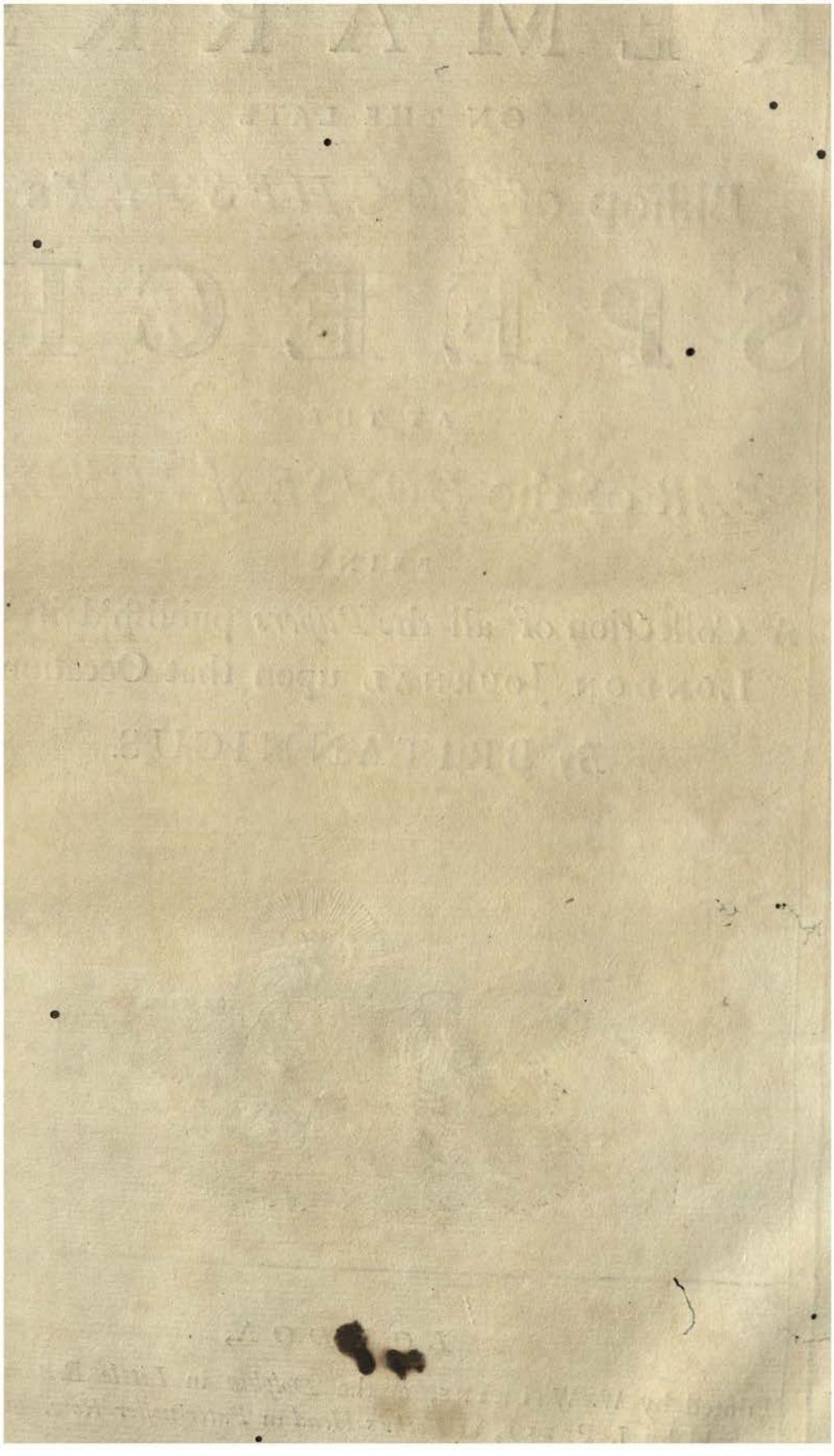
A Collection of all the *Papers* publiſh'd in the LONDON JOURNAL upon that Occaſion,

By BRITANNICUS.

LONDON,

Printed by W. WILKINS, at the *Dolphin* in *Little Britain*; and Sold by J. PEELE, at *Locke's Head* in *Pater-noſter-Row.* 1723.

[Price One Shilling Six-pence.]



BRITANNICUS's

REMARKS

ON THE

SPEECH

OF THE

Late Biſhop of *ROCHESTER.*

PAPER I.

THERE is nothing more Unhandſome, or Unmanly, than to aggravate the Miſfortunes of an *Unhappy Man*; Nothing more *Inexcuſable*, than for Any who are in *Proſperity*, to add to the Load of the *Afflicted*; or to take a Pleaſure in purſuing *Thoſe*, who are in a *State* of *Suffering*. This is a good general Rule: and Every well-diſpoſed Mind will in all ordinary Caſes conform to it. But, whenever the Conteſt lies between the *Profeſſion*, or the *Perſonal Character* or *Conduct* of Any Man, on *One* Side; and the Safety or Honour of the *Publick*, on the *Other*: Whenever the Reputation of a Man's *Abilities*, *Learning*, *Manner* of *Speaking*, or *Art* in colouring over a Bad and Deſperate Cauſe, are oppoſed, and cried up by Many in Oppoſition to the *Juſtice* of a *Nation*; and by Many, in direct Deſign of carrying forward the *Ruin* of it: *Whenever* this is ſo, It then becomes as true and as certain that *Right* and *Duty* require ſuch an *Oppoſition* to Attempts of this Nature, as at the ſame time preſerves itſelf within the *Rules* of *ſtrict Juſtice* to the *Perſon* concern'd, whilſt it ſhews its firſt and principal Care to be the *Good* of the *Whole Society*.

This is the *Caſe* between the late *Biſhop* of *Rocheſter*, on one Side, and his *Country*, on the other; between the *Reputation* of the *Perſon* condemn'd, and the *Reputation* of his *Judges* who condemn'd Him; between the *Attempts* of Some ſtill to make uſe of *his* Name, and *his* Fate, to the Diſturbance of the *Government*; and the *Intereſt* of that *Government*, upon the Quiet and Security of which all our Hopes of worldly Happineſs do and muſt depend. For the *Scene* of this Affair is not yet ſuffer'd to come to an end. But tho' it be very remarkable, that *before this*, (whether thro' ſome Unhappineſs or other in his own Conduct, in the ſeveral Stations He had paſs'd thro', or thro' the Stupidity and Inſenſibility of Others to his *Merit*, I do not determine,) He ſeem'd not to have conciliated the inward Affections (I had almoſt ſaid) of *Any One Man* of *Any Party* to *Himſelf*: Yet, as ſoon as *One certain Cauſe* appear'd to be ſtruck at thro' *Him*, Numbers immediately are become his *Advocates*; and a great *Perſonal Opinion* of Him, is now to be created and heighten'd; leſt the contrary ſhould a little ſink *that Cauſe* in which He ſuffer'd, or help to beget any Favour towards *Thoſe* who join'd in condemning Him. *Sometimes*, We are told of the

Sacredneſs of his *Profeſſion*; as if *That*, which is the blackeſt Aggravation of *Civil Guilt*, can poſſibly be a *Protection* againſt *Civil Puniſhment*. Sometimes, his *Learning* and great *Talents* are ſet forth as ſufficient, if rightly divided and ſpread abroad, to enrich the *Whole* Unhappy Lump of Common Mortals, He has left behind Him; tho' before this, his *Learned Abilities* were thought rather *Pretty* and *Entertaining*, than *Deep* and *Subſtantial*. Sometimes, the Whole Frame of the *Government* is threaten'd with *Shocks*, and almoſt with a *Total Diſſolution*, for the crying Preſumption of defending itſelf. *Sometimes*, the *Whole Parliament*, the *Repreſentatives* of the *People*, and the Guardians of *Publick Liberty*, are expoſed to the *Multitude* without Doors, as *Abject Mercenary* and *Dependent* Machines, moved entirely by the Will and Pleaſure of a Mighty Hand, or Two, behind the Curtain; which only *pointed out* a *Prelate* to *Deſtruction*, and the *Herd* obey'd, and deſtroy'd Him. *Sometimes*, the *Fire* of *Rage* is particularly kindled and ſtir'd up againſt *Thoſe* of *his own Order*, who gave their Voices for ſuch a *Sentence* againſt a *Brother*: as if Any thing could be a greater Glory to Them, than to be zealous in a particular Manner to return that *Security* to the *State*, which the *State* alone can give and continue to *Them*; or Any thing more for the *Honour* of the *Church*, than to pay back, in the Duty and Gratitude of *Faithful Service*, the *Obligations* of Quiet and Endowments, owing to the *Benevolence* of the *Civil Society*, and the *Protection* of the *Civil Power*: or, as if the very *Reproach* itſelf were not a ſufficient Reparation for its own Injury, whilſt it repreſents Them as Men ſo harden'd and abandon'd, as to prefer *Juſtice* againſt a *State Criminal* (where They think it is due) before the *Affectation* of their own *Superiority* over the reſt of Mankind, or *Independency* on the *State* in *Criminal Matters*; or any *Imaginary Privilege* of not being touch'd, till They had been *firſt* levell'd with the *Lay-World* by a *Judgment* purely *Eccleſiaſtical*. Sometimes, the *Heart-Strings* are play'd upon, and the *Tone* of *Pity* and *Commiſeration* towards the *Criminal* is aſſumed, to melt down the ſoft and tender Affections of Thoſe, whoſe Underſtandings can't be convinc'd: whilſt all *Pity* and *Commiſeration* are denied to an Injured Country. And then again, *Satire* and *Invective* take their Place; and all the *Springs* of *Indignation* and *Wrath* are put in Motion, againſt *Thoſe* in *Power*; in whom their *Power* alone is *Guilt*, ſufficient of itſelf to make all the Guilt of *Traitors* and *Conſpirators* vaniſh, and be forgot.

They, who act, and talk, and write, in this Manner, muſt not wonder if there be *Others*, who are ſo far provok'd by the *Danger* to their *Country*, and to its *Government*, from Heats and Paſſions, artfully continued and revived by theſe Methods, as to enter into the *Cauſe*, and ſhew it in its true State. The only *Point* is, on which Side *Truth* and *Juſtice* lie; and in ſettling this, the *Perſon* accuſed, Great or Little, has a ſtrict Right to the Impartiality of our Judgments; and the *Perſons* who accuſed and condemn'd Him, have the ſame. And this ſhall be my *Aim*, in the following *Papers*; to which I will ſtrictly keep, without deviating to the Right Hand or to the Left, thro' Favour and Affection, or thro' Prejudice and Ill-will. The *Speech* of the late *B.* of *R.* is now publiſh'd. I call it ſo, though it appears to be done from a *Copy* written very haſtily in *Shorthand* from his Mouth, becauſe it agrees with *other Copies* ſo taken, and is really, in the *main*, what He ſaid; tho' not always expreſs'd in a perfect Manner. It wants ſometimes *Words*; ſometimes the right ſtopping; and ſometimes the proper Particles of Connection. But it is truly his *Whole Defence*; in which not *One* thing that He alledg'd for Himſelf is omitted; as far as my *Memory*, compared with the *Memory* of *Others*, can reach back; who, as I told the *Reader* in a *former Paper*, attended, as Many Others were permitted to do, upon that Affair. I will endeavour, as I go along, to ſupply the *Defects* of the *Copy*: tho' the *Errors* are of that ſort, that Every Man of *Common Senſe* may eaſily, without Help, ſee what *Supplies* are neceſſary to make the *Senſe clear*; and very readily perceive what Tranſitions, what Stops, or what connecting Words are wanting. And to make all the more *Methodical* and *Diſtinct*, I ſhall divide it as naturally as I can into its *ſeveral Parts*. The *Firſt* will contain his *Complaints* of the *Uſage* He met with in his *Confinement*. The *Second*, his *Account* of the *Reaſons* He had for not appearing before the *Houſe* of *Commons*. Both which relate to what paſſed *before* his Appearance at the *Lords* Bar. The *Third* will contain his Complaints of hi[illegible] Uſage, and Hardſhips put upon Him, at that *Bar*, during his *Trial*, before his *Defence* was made. The *Fourth* will ſhew His State of the *Charge* againſt Him, and his Direct *Defence* of Himſelf from it. The *Fifth*, His more Indirect *Defence*, taken from the *Improbability* of it, deduced from ſeveral *Circumſtances*. The *Sixth* will relate to his *Objections* againſt the *Nature* of the *Puniſhment* inflicted. The *Seventh*, to the Danger of the *Precedent* of ſuch a Manner of Proceeding, as He repreſents this to be. And the *Laſt* will regard His *ſolemn Aſſeverations*, and *Concluſion*.

As We paſs through theſe Particulars, and after We have done with them, ſeveral *Remarks* will ariſe upon thoſe Parts of his own *Behaviour* at the *Bar*, both with regard to his *Judges* and the *Witneſſes*, which cannot be underſtood from any Thing in his *printed Speech*; as well as many *Obſervations* upon the *Speech* it ſelf, which will ſhew on which ſide *Truth*, *Honour*, *Temper*, and *Juſtice* lie. And as I think it my Duty to ſpeak with Freedom; if, upon the *Whole*, it ſhall plainly appear, (as I can almoſt promiſe it will,) That, in his *Defence* of Himſelf, both as to the *Matter* and *Manner* of it, there is not *One* Sign of *Innocence*, but *Many* of *Guilt*; and (which is of more Account to ſome Tempers)

that

that there are in it *very few* Marks of any thing like a *Great* or *Uncommon Genius*, ſo much celebrated by *ſome* Perſons; but *Many* of ſomething quite *contrary*: This will make ſtill more evident the ſuperior Glory of All that is Good and Right, by ſhewing that a *ſtrong Underſtanding* conſtantly dwells with *Integrity* alone; but that it *abandons* Thoſe who firſt *abandon* it; and gives up Thoſe to the Guidance of their own *Choice*, who prefer *Wit* to *Good Senſe*, and the crooked By-paths of *Craft* to the Strait and Unblemiſh'd Conduct of *Wiſdom*. If the *Remarks* ſhall at any time ſeem a little hard, and in *Severity* ſomething too preſſing; I promiſe it ſhall be only ſuch a *Severity* as reſults from the *Nature* of *Things*; and ſuch as *Truth*, *Juſtice*, and the *Defence* both of the *Government* and of the *Govern'd Society*, make abſolutely neceſſary. For, to uſe an Expreſſion like his own, p. 11. *He is gone—I deſire not to diſturb his* Memory, *any farther than what is neceſſary for* the *Defence* of my Country: which is of much more Importance, than the *Defence* of any particular Man. I call it the *Defence* of my *Country*; and ſhall ever think it ſo, to remove thoſe *falſe Colours*, to take off the Force of thoſe *Inſinuations*, to ward againſt thoſe *Miſrepreſentations*, to diſprove thoſe *Falſities*; which, if ſuppoſed and ſuffer'd to exiſt in their full Force, muſt ſink and ruin the *Honour* of the *Supreme Power* of the *Nation*; leſſen all the Regard due to It from *Inferiors*; and go on to diſſolve the preſent Frame of the *Whole Government*.

The *Two Leading* Complaints will not take up much of our Time. The *Firſt* was deſign'd to make a ſtrong Impreſſion at the *Entrance* of the *Defence*. "The *Long and Cloſe Confinement* "He had been *under*——The *Severity and Indignity* he had been *treated with*; *ſuch as*, *He believes*, *no Priſoner*——*of his Age*, *and Function*, *and Rank*, *ever was*——*Such Uſage*, *ſuch Hardſhips*, *ſuch Inſults*, *as* He had *undergone*——Theſe are repreſented, as what had made Him *very unfit to make his Defence againſt the Bill*.—— It is very eaſy for One long uſed to the *Arts* of *Oratory*, to magnify all *Imaginary Evils*, and willingly to forget the *True* Ones. This *Art* is skilfully managed here. The *Uſage* He had met with, is to bear the Load of His *Unfitneſs* for his *Defence*. But the true *Cauſe* of that *Unfitneſs* is paſs'd over in Silence. The only Thing which could make ſuch a *Priſoner*, before ſuch *Judges*, with his *Counſel* about Him, and ſufficient *Time* allow'd Him, *unfit* for his *Defence*, was his *Guilt*. One *Grain* of this would weaken his *Defence*, more than a *thouſand Loads* of External *Hardſhips* and *Inſults*. And had He been *Innocent*, *Innocence* had been Support enough, where He now ſtood; and He had had no need of theſe *Complaints* of *Strength decay'd*, and *Spirits broken*. Not but that I can *truly* add, if I may have Leave to ſay ſo, that there was not the leaſt Sign of ſuch *Uſage*, from any ſuch viſible Effects. For, I believe, there never was ſeen in any *Accuſed Perſon*, more *Fierceneſs*, or *Vigour*, or *Vivacity*, (or whatever you will call it,) towards his *Judges* within, or the *Witneſſes* without the *Bar*, than ſhew'd itſelf in *Him*. I can't indeed call it the *Aſſurance* of *Innocence*, which always is within due Bounds; but it was ſomething which betrayed no *Decay* of *Strength*, or *Exhauſtion* of *Spirits*. His *Confinement* and *Uſage* were ſuch, as are unavoidable in the Caſe of *Perſons* apprehended for *High Treaſon*. Any other would be inexcuſable in a *Government*, in ſo high a Concern; and defeat the very *Ends* of taking up ſuch *Criminals*: and the *Expectation* of any other, abſurd in the *Criminal* Himſelf. But ſince He forces the Remembrance of Men to look back, I cannot forbear to remark that *One*, who knows the World, and the Way of treating *Priſoners* in ſuch Caſes, would not have mention'd This, but for *ſome other* Reaſon, than what here appears. There is an *Art* in being the *firſt* to *complain*, of what a Perſon knows to have been laid to his own *Charge*. He was ſenſible, *Complaints* and *Diſcourſes* had gone about of *his own* Behaviour in his *Confinement*, towards *Thoſe* to whoſe Care He was committed: and I can't help thinking, that the Inward Conſciouſneſs of his having been Himſelf tranſported by the Frailty of Humane Paſſion, to do what had a little Appearance of *Inſulting* Others, might induce Him to *cry out* publickly firſt, and to enter his *Complaint* here, as ſome *Apology* at leaſt for Himſelf in thoſe Parts of his *Conduct*. However artful this may *ſeem* in *general*; it was far from being ſo in *reality*, to give it as a *particular Reaſon* for the *Defects* of his *Defence*; when his *Innocence* did not only rely upon his own *Vigour*, but was aided by the additional *Strength* of his *Learned Counſel*, who had not been thus weaken'd by *Inſults*; and when He Himſelf knew, there had been before a *proper Time* to have ſpecified to the *Miniſters* any Particulars of ſuch *Unbecoming Uſage*; and was well aſſured, that upon ſuch an Occaſion, They could not have denied Him *Redreſs*, even for *their own* Sakes. But it was not in his Power to give any ſuch Inſtances: and therefore, the *general Complaint* was reſerved for a *moving Exordium*, at once to *excuſe* and *ſtrengthen* the *Weakneſs* of his *Defence*.

The *next* Point is, His Account, Why He did not appear before the *Houſe* of *Commons*, as the *Lords* had left Him at *Liberty* to do. His *Reaſons* amount to this, "That the *H.* of *C.* "had paſs'd a Vote to this Purpoſe; That it "appear'd to Them, that He was principally "concern'd in—a deteſtable Conſpiracy; and "therefore, that it was in vain for Him, who "was thus *prejudged*, to enter into any *Defence* "before that Houſe; ſince He could not hope "to have made any *Impreſſion* there, let his "*Innocence* have appear'd never ſo clearly." But I ſhall not ſcruple to ſay, This could not be the *Reaſon*. For *He*, who knew *Parliamentary* Affairs ſo well, certainly knew that a *Vote* of that ſort is not at all *Definitive*; but only a previous neceſſary *Foundation* for a Bill, *againſt* the

paſſing

paſſing of which that *Honourable Houſe* are as much at Liberty to *hear*, and to determine, as if no ſuch *Vote* had paſs'd; and no more in the leaſt precluded by it, from acquitting a Perſon who ſhall upon Trial appear *Innocent*, than a *Common Jury* is obliged to *condemn* every *Priſoner*, againſt whom a *previous Bill* is found, upon the firſt View and Appearance of Evidence. He might, with the ſame *Pretence*, have refuſed to come to the *Bar* of the *Houſe* of *Lords*; and might have argued that They had received the *Bill* againſt Him from the *Other Houſe*, and had unanimouſly agreed to the reading it *once*, and had order'd it to be read a *ſecond* time; by all which Steps They had *prejudged* Him; and therefore, that He could expect no Juſtice from Them; and therefore, that it was in vain for Him to *appear*. Another *Reaſon* therefore, muſt be ſearch'd after, for *this* Conduct; and I can think of *None*, but becauſe it was imagin'd to be more *Cunning*, and more for his *Intereſt*, *not* to diſcover the *Topicks* of his *Vindication*, or the *main Grounds* upon which his *Defence* ſhould go, till He could ſurprize and overwhelm his *Adverſaries*, with *All* at once, at the *Bar* of another *Houſe*. Had it not been for ſome ſuch Reaſon as this, He would not, by his *Refuſal* of appearing below, have furniſh'd that *Honourable Houſe* with a *Compleat Juſtification* of their *Condemning* a *Man*, who diſdain'd to anſwer to their *Charge* againſt Him; and who would not ſo much as give *Them* any poſſible Opportunity of *acquitting* Him. But it is a *Reaſon* indeed, which is not any *Mark* of that *Innocence*, which can never be afraid of producing all its Strength and Light before the whole World. And if I am out in this, yet it is a much more *probable Reaſon* than That here given; which is attended with this *unfortunate Circumſtance* likewiſe, to prove it not the *true One*, viz. That *after* that *Vote* of the *Houſe* of *Commons*, the *Priſoner* petitioned the *Houſe* of *Lords* to know their *Sentiments*, upon a *Member* of *their Houſe* appearing before the *Other*; and that He did not find out *this Reaſon* againſt it, till *after* They had left Him to his own *Liberty*: Whereas *This Reaſon* had equal Strength *before*; and, if good, took away all ground for his *applying* to Them, being ſufficient of itſelf to have hinder'd his *appearing* below. Theſe *Obſervations* fully ſhew the *Want* of *ſtrict Truth* in this *Reaſon* here alledged; and the Want of all Force in thoſe few Ill-placed and Ill-grounded *Expoſtulations* which immediately follow it, to the *End* of the *firſt Page*.

BRITANNICUS.

PAPER II.

THE *Art* of *Complaining* is of great Uſe to a *Speaker*, who is managing the *Affections* of his *Judges* to his own Purpoſes; if He can do it within the *Rules* of his *Art*, preſerving *Decency* to *Them*, and *Probability* of *Advantage* to *Himſelf*. But there is a *Nicety* in This, as well as Other *Inſtances* of *Oratory*, in a Man's *Defence* of Himſelf, from an *Accuſation*. Suppoſe a *Priſoner* in any *Court*, going to his *Main Defence*, ſhould ſpeak to his *Judge*, and let Him know that He had already, through the whole Trial, injured Him greatly; that He had denied Him the Means of clearing Himſelf; and ſhewn a determin'd Reſolution to condemn Him, right or wrong: Would Any One ſcruple to affirm, that This was all an Artificial Deſign of covering the *Weakneſs* of his future *Defence*, by the *Hardſhips* pretended to be put upon Him; or rather, that the only *View* in This was, that it might hereafter *move* Compaſſion *without Doors*, it being impoſſible for Any One to imagine it could ſerve Him *within Doors*. Thus it is, in the *preliminary Complaints* of the late E. of *R.* about the *Ill Uſage* and *Hardſhips* put upon Him, at the *Bar* of the *Houſe* of *Lords*: Which is the *Part* of his *Speech* that is now in its *Order* to be conſider'd. He is juſt going to begin his *Defence* of *Himſelf* from the great *Crime* of a *Treaſonable Correſpondence*; and He begs leave to ſpeak to his *Judges*, the *Lords*, before He enters upon it, to this Effect. "My Lords, I muſt be "ſo free as to tell You, that You have already, "in the *Courſe* of this *Trial*, ſhewn Yourſelves "*Unrighteous*, *Partial*, and *Determin'd*; You "have denied Me many Inſtances of *Common* "*Juſtice*; You have refuſed Me what was ne- "ceſſary for my preſent Defence: and I ex- "pect nothing from You, that is agreeable to "Juſtice or Equity." What *Others* concluded from ſuch an *Attack*, I know not: But I remember, I concluded from it, That the *Speaker*, being conſcious within, that He had but a *thin weak* Defence of Himſelf to make, was reſolved before-hand to lay in ſome *Apology* for it: and *That*, as the *Speaker* was too experienced an *Orator* not to know that this Uſage muſt rather exaſperate his *Judges*, than conciliate their Affections to Him; and too Cunning a Man, to do this without *any End* at all; there was an *End* in it: and that theſe *Complaints*, and this *Speech*, (as well as Thoſe of his Friend Mr. *Kelly*,) were calculated entirely for the *People*; and framed for the moving of the Paſſions *without Doors*, and not at all for convincing the *Judgments* or gaining the *Regards* of his Judges *within Doors*. In *this* View, there is *ſome Senſe*, tho' no *Honeſty* in them; in the *other* View, there is neither *Senſe* nor *Honeſty* in them: as I ſhall make appear, by a few juſt *Remarks* upon Every One of them.

1. The firſt *Complaint* is, *Reading* Extracts *of* Anonymous Letters, *without ſuffering any other Parts of the ſame* Letters, *tho' relating to the ſame* Subject, *to be read*. p. 4. This ſounds a little hard at firſt Hearing; and carries along with it a very bad *Repreſentation* of the *Temper* of his *Judges*. But when the *Reader* comes to know the true *State* of the *Caſe*, it will not appear of very great Moment. In the firſt place, it gives a wrong Turn to the *Queſtion*, to call them *Extracts* of *Anonymous Letters*; which, properly ſpeaking,

ſpeaking, are *Letters* written by unknown Perſons, or by Perſons who will not be *known* to write them by Thoſe to whom They are writ. Whereas, Theſe *Letters* came from *Known Perſons* abroad, whoſe Names were ſubſcribed to them. And *then*, the Chief Point is, that this *Repreſentation* of the *Caſe* is exceeding *partial* and *unfair*. Theſe *Extracts* of *Letters* were read, not as *direct Evidence* againſt the *Biſhop*, whoſe Name was not (I believe) mention'd, or pointed at, in any One of them: but They were read wholly and ſolely in ſupport of the *Preamble* of the *Bill*, and of that general *Aſſertion* in it, that *there was a deteſtable Conſpiracy form'd and carried on*, &c. The *Criminal* was no more affected by *This*, than if they had not been read; nor at all more hinder'd from any Proof of his own *Innocence*, than if no ſuch *Letters* had been produced. This is plain from the Nature of the Thing. For what Hurt could it poſſibly do *Him*, to prove from ſuch Intelligences from abroad, that there was a *Conſpiracy*, or a Thouſand *Conſpiracies*, if He were *Innocent*, and could prove that He had no Part in them? And not only from the *Reaſon* of the Thing; but in effect from the *Confeſſion* of *All* who oppoſed the reading thoſe *Extracts*. For one great *Argument* was, What need of *reading* them; or what *Reaſon* for it, when the *Houſe* of *Lords* had already (and *that* unanimouſly) voted, That there has been ſuch a *Conſpiracy* carrying on? and when no One doubts it, or pretends to doubt it? But there was at leaſt *this* Reaſon for reading them, that it was more decent, and had a better Appearance, to *read* the Proofs of *Every Allegation* in the *Bill*, than to take Any One of them for granted. And I will appeal to any Impartial Judge, Whether, ſuppoſing theſe *Proofs* of a *Conſpiracy*, affirm'd in the *Bill*, had not been offer'd and *read*; the *ſame Perſons*, who now were *againſt* reading them, would not very probably have been much more ſtrong in their *Demand* to have them *read*, as neceſſary for the Support of an *Allegation* in this particular *Bill*; and have repreſented the *Evidence* as defective without them.

I muſt not here diſſemble, that the *Point* principally urged in the *Argument* againſt the reading them, was, that they were the Support of a *Bill*, which was in the *End* to affect a *Man* in his *Liberty* and *Fortune*; and therefore, ought not to be read, in the manner they were. But the *Anſwer* to This is obvious. For, as the proving by theſe *Letters* a *Conſpiracy* in general, could no more affect the *Priſoner*, not named in them, than it could Any One of his *Judges* themſelves; ſo, ſuppoſing it otherwiſe, it is evident that the *Conceſſion* of *Thoſe* who oppoſed the *reading* them, muſt have had the ſame *Effect* upon *Him*, in all *reſpects*. For where could be the Difference with reſpect to Him, whether the *Aſſertion* of a *General Conſpiracy* was put into a *Bill* which was to affect *Him*, if guilty, without any thing *read* to ſupport it, but merely as an *undoubted uncontеſted* Point; or whether it was put in, ſupported by the *Evidence* of *Letters* and *Intelligences* from abroad. And I cannot but think that *Every Member* of that *Auguſt Aſſembly* would much rather have the *Complaint* of the *Criminal* ſtand, as it does now; than to have heard Him too juſtly *complaining*, (as He would have done in the *other* Way,) that there was nothing *read* in *Evidence* of a very important *Aſſertion* in a *Bill*, which was deſign'd to affect *Him* ſo greatly.

But I would not have the *Reader* here think, that the *Manner* of doing this, was the *Reſult* of an abſolute *Implicit Faith* in the *Miniſters*. For not only the Two *Secretaries* of *State*, but the *Nine Lords Committees*, to whom the *Papers* relating to the *Conſpiracy* were referr'd by the *Houſe*, gave the *Houſe* perfect *Satisfaction* in the following Points; That they had ſeen the *Original Letters*, ſubſcribed with the Names of Thoſe who wrote Them: That the PARTS of them, now offer'd to be read, were faithful *Extracts* of whole *Sentences* or *Paragraphs* out of them; not *Abſtracts* or *Abbreviations* of any Parts of them: That the *Other* Parts of thoſe *Letters* of *Intelligence*, and the Names of the *Perſons* who ſent them, could not, in *their* Opinion, be laid before the *Whole Houſe*, without the utmoſt Detriment to the *Publick*, and the utter Diſcouragement of *All* ſuch *Intelligence* for the future, as might be neceſſary even for the Safety of the *Nation*: and That, in the remaining Parts of thoſe *Letters* not diſcloſed, there was not any *Sentence* or *Word*, which either *contradicted*, or varied, or at all alter'd the Senſe of the *Parts* now offer'd to be read. Upon which *Satisfaction* given to the *Houſe*, upon the *Honour* of ſo many *Lords*, in a Caſe which, in the Nature of it, muſt be truſted as a *Secret* with *ſome Perſons*, it was reſolved to read them, in *ſupport* of the *general Aſſertion* of a *Conſpiracy*. And whether this deſerved the *Cenſure* of *Thoſe*, who would have had the ſame *Aſſertion* in its full Force kept in the *Preamble*, without any *Proof* read to it; or the *Outcries* of the *Politicians* without Doors, who knew not the State of the Matter; or the formal *Complaint* of the *Priſoner*, as of an *Injuſtice* to *Him*, whoſe Cauſe it could not alter, in the leaſt Tittle, one Way or other; Let All who pleaſe, now judge.

2. The *Second Hardſhip complain'd of*, is,—— *Excuſing the* Decypherers *from anſwering* Queſtions *ask'd by the* Priſoner, *and which He thought neceſſary for his* Defence, *leſt They ſhould reveal their Art.* p. 4. The *Hardſhip* of this is repreſented ſo, as to lie in theſe *Two Points*, That *He* Himſelf thought theſe *Queſtions* neceſſary for his own *Defence*: and that the *Decypherers* refuſed to anſwer, merely for fear of *revealing* their *Art*; and were ſupported by the *Houſe* in ſuch *Refuſal*, upon *that Reaſon* only. As to the *former* of theſe, If every *Trial* were to laſt, as long as any *Criminal* could invent *Queſtions* to ask, which He would affirm *Himſelf* to conceive to be neceſſary for his Defence, there is an *End* of all *Trials*; or rather, there never could be an *End* of

of any *One Trial*. But there is always a *Measure* in such Things; and the *Judges* of the *Cause* are always supposed to be the *proper Judges* of what is so *necessary*, or so *useful*, that it ought to be admitted; and what not. And whoever considers the *Time*, and the *Patience*, consumed in the *Trial* now before Us, will not think that the *House* of *Lords* were ever backward to allow whatever was reasonable and fitting. And that no Injury was done to the *Prisoner* in this Particular, I dare say, may be proved from his own Mouth. For tho' here, in the Tenderness and Passion of Complaining, He represents these *Questions*, as *necessary* for his *Defence*; yet, the *Reader* must not imagine from hence, that He meant really *necessary* in the strict Sense of the Word. For, We shall see that, without the *Answer* to these *Questions* from the *Decypherers*, or without any Regard to their *Art*, He has, in his own Opinion, fully demonstrated his *Innocence*. That He had no part in the *Treasonable Letters* charged upon Him;—*This*, says He, (which is indeed *all*) *hath been made out—by such a Concurrence of Evidence, so clear, full, and legal, as I perswade Myself, can have left no Doubt remaining*——&c. p. 5. From whence it appears, that He was in no Manner of *Want* of any thing farther from the *Decypherers*, than what They had already answer'd, in order to his *clear* and *undoubted Vindication*. And *this* He knew when He made this *Complaint*: which therefore, must not be taken *literally*, even for fear of hurting *Him* who made it, and running into the *Inconvenience* of supposing, that, what was *necessary* for his *Defence* having been refused Him, He was not able, and had not in effect, made out his *Innocence*; contrary to what He Himself, and Those who upheld Him, strenuously maintain'd. The *Argument* is strong. He did, in *his own Opinion*, make out his *Innocence* clear and undoubted: Therefore, He could not in his Heart believe that Any thing *necessary* to his *Defence* had been refused Him.

But now, We will consider the *Reason* said here to be given for *excusing* the *Decypherers* from answering farther, after They had already answer'd a Multitude of *Questions*, viz. *lest They should reveal their Art*. And, supposing *This* to have been the *sole Reason* given; I say, the *Lords* would have been justified in not insisting any farther upon *Answers* from Them, by the Nature and Course of all such *Proceedings* in all *Courts* of *Judicature*. For when *Artists* of any sort are called to give *Testimony*, They are always call'd to do it under *Restrictions*; to do it in such a Manner only, as shall not hurt *Themselves*; as shall not disclose any *Secrets*, of which They are the *Masters*, to *their own* Prejudice; and a sort of *Implicit Belief* is always paid to what They answer upon *Oath*, if nothing appears to destroy it, without enquiring into those *Depths* and *Springs* of their *Art*, which it is not fit for Them to lay open; and which indeed, if laid open, could not probably, during the *Time* of any *Trial*, be sufficiently comprehended, or judg'd of, by *Strangers* to that *Art*.

But indeed, This was *not* the *sole*, or *principal*, *Reason* given for the *Refusal* of answering to some particular *Questions*. For it was urged several times by Mr. *Willes* (who shew'd a *Modesty* equal to his *Skill*, in all He said) that He apprehended the *particular Questions* proposed went too far; that the *Answers* to Them might not only be a great *Prejudice* to *Himself* as a *Decypherer*, with regard to an *Art* which lay in very few Hands, and was of that Nature at present, as to continue so; but also of great Detriment to the *Publick*, the Safety of which might often depend upon this *Art*. And He gave a very judicious *Reason* for it, that if He should *answer* Questions, which manifestly tended to nothing, but the laying open the whole *Ground* and *Method* of proceeding in the Affair of *Decyphering*; This itself, *viz.* the *Discovering* all his *Methods* of finding out the Meaning of the *Cyphers* He had interpreted, might the more readily lead *Conspirators* and *Traitors* to invent a perfectly new *Cypher*, which it might be perhaps *impossible* for *Him*, or *Any One*, to *decypher*; in which Case, whenever it should happen, the *Government* might suffer even a *Total Ruin* in some extraordinary Conjunctures. But *this* Reason the *Criminal* has thought fit artfully to conceal: Which, added to the Other, is fully sufficient to shew the *Weakness* of the *Complaint*; and to justify the *Proceeding* of his *Judges*, whom He has here represented, with great *Partiality*, as acting a *hard Part*, where They did Nothing but what *Custom*, and the *Nature* of the Thing, and the *Good* of the Publick made reasonable and necessary; and *Nothing* that at all affected the *Tenor* and *Strength* of his own *Defence*. Nay, as I shall quickly shew, notwithstanding *Another* of his *Complaints*, They afterwards, upon *His Request*, allow'd Him a much long Opportunity than He Himself ask'd, of proving in *Another* Way the *Treasonable Letters* to be *falsly decypher'd*; which was the *Utmost End* of all his *Questions*; but which indeed at last, He would not so much as attempt to do. Judge from hence of the *Ground* of such *Complaints*.

BRITANNICUS.

PAPER III.

THE *Third* Grievance which the late *Bishop* of *Rochester* complains of, in the *Course* of the *Evidence* against Him, is, *The not suffering* Him *to be answer'd by the* Clerks *of the* Post-Office, *lest the Secrets of that* Office *should be discover'd*.—— p. 4. Tho' *this* be not the *true Reason* of the Conduct of the *Lords*, here complain'd of; yet the *Fact* itself is *thus far true*, that, after the *Clerks* had answer'd many *Questions*, and the *Prisoner* was still going on to *Others*, the *House* thought best to stop, and enter into a *Debate*, whether it was fit that the *Questions* proposed, and *Others* which might naturally be supposed to follow, should be particularly answer'd;

ſwer'd; and, after a good deal of Time ſpent in conſidering the Matter, came to the following *Reſolution*, viz. "That it is the Opinion of "this Houſe, that it is *inconſiſtent* with the *Pub-* "*lick Safety*, as well as *unneceſſary* for the *Pri-* "*ſoner's Defence*, to ſuffer any farther *Enquiry* to "be made, upon this Occaſion, into the *War-* "*rants* which have been granted by the *Secre-* "*taries* of *State*, for the ſtopping and opening "of *Letters* which ſhould come or go by the "*Poſt*; or into the Methods that have been ta- "ken by the *proper Officers* at the *Poſt-Office* in "Obedience to ſuch *Warrants*." This deſerves to be conſider'd a little, with ſome Accuracy, that it may not appear to the World, that *Unneceſſary Hardſhips*, or *Unjuſt Difficulties*, were put upon the *Priſoner*. And I can think of no better Way of putting it in its due Light, than, after having ſet down the very *Words* of the *Reſolution* itſelf, to conſider the *Reaſons* urged againſt it by *Thoſe* who oppoſed this *Reſolution*; and the rather, becauſe theſe *Reaſons* have ſince appear'd publickly abroad.

The *firſt* Reaſon was taken from the Neceſſity of *Croſs-examining* of *Witneſſes* for the *Defence* of the *Priſoner*, and for the *Satisfaction* of his *Judges*: and therefore, theſe *Clerks* having been brought as *Witneſſes*, relating to the ſtopping and opening *Poſt-Letters*, the *Priſoner* ought not to be debarr'd the asking Them any *Queſtions*; nor the *Lords* be denied Satisfaction in what might *help Them to form a Judgment*,—*the Validity of which* (it is ſaid) *muſt in a great Meaſure depend on the Proof given of the Letters* (now in Queſtion) *having been TRULY ſtop'd and open'd, as aſſerted.* Whoever compares this *Reaſon* with the *Reſolution* itſelf, will preſently ſee that it proceeds upon a Miſtake of what was the *Point* really over-ruled by the *Houſe*. This *Reaſon* itſelf allows that *this Fact* had already been teſtified at the *Bar*, *viz.* that the *Individual Letters* then before the *Houſe* were true Copies of *Originals* ſtop'd, open'd copied, and forwarded, at the *Poſt-Office*. This, I ſay, had been already declared upon *Oath*, by the *Clerks* who Themſelves ſtop'd and open'd them. The *Secretaries of State* (or *One* of Them) added likewiſe the moſt Authentick Teſtimony that *Orders* were ſent from the *Secretary's Office*, to the *Poſthouſe*, for this Purpoſe; *viz.* for the *opening Suſpicious Letters*, at this Juncture, according to the Power veſted in the *Adminiſtration* by *Act of Parliament*. The ſame *Reaſon* here alledged, not only allows, but aſſerts, that the *Judgment* of the *Lords* muſt *in a great Meaſure depend upon the Proof given of theſe* Letters *having been TRULY ſtop'd and open'd*, &c. And indeed, This was the only *Fact* of any *Importance*. Now the *Reſolution* of the *Houſe* prevented no *Enquiry* relating to *This*, which could at all render *this* material *Fact* either more or leſs plain; then, it is evident, it was not liable to the *Cenſure* firſt upon it, nor a ſufficient Ground for the *Priſoner's* Complaint. And that it did not, is plain, becauſe the *Reſolution* was not made till after *repeated Queſtions* had been ask'd upon *this Head*; not, till after the foremention'd *Evidence* had been given upon *Oath* to *this* important *Fact* itſelf, *viz.* that theſe *Letters* were *order'd* to be ſtop'd, and were accordingly ſtop'd, and open'd, and copied, and forwarded.

The *Reſolution* therefore, againſt farther *Enquiry*, was occaſion'd by the *Priſoner's* Queſtions relating to the *Secretaries* of *State* Execution of the *Powers* veſted in Them by *Law*; and to the *Perſons* concern'd in conveying their *Orders* to the *Clerks*; and to the *Manner* and *Method* of ſtopping and opening *Letters*. Theſe were the *Points* that it was declared *Inconſiſtent* with the *Publick Safety* to examine into, or to lay open. And the Reaſon given was very powerful; becauſe, It was of no Importance to the *Houſe*, in the *Queſtion* then before *Them*, whether the *Secretaries* of *State*, or the *Officers* of the *Poſt-Office*, had conform'd Themſelves to the *Law* in every Step They took upon this Occaſion; or not: but it was fully ſufficient that, whether the *Clerks* had *Authority*, or not, to do what They had done, ſtill the *Fact* was ſo, and ſufficiently atteſted, that theſe *Letters* were *ſtop'd*, and *open'd*, and *copied*, at the *Office*. If the *Lords* ſhould think proper to enquire into the *Conduct* of the *Adminiſtration*, or the *Poſt-Office*, upon ſuch *Occaſions*, there would be a proper Time for *That*; and They had an undoubted *Right* to do it, if They ſhould eſteem it for the *Publick Good*: but it could not be fit, or neceſſary, to *deviate* from the *ſole Point* now before Them, into what could not enlighten the *Fact*, but only create Suſpicion and Uneaſineſſes about the *Method* and *Manner* of Management; which could not come upon the *publick Stage*, without affecting the *Government* itſelf, the Security of which in ſome Meaſure *often* depended upon the *Secrecy* of ſuch Things, and the *Implicit Truſt* neceſſary in ſuch ſort of *political Affairs*. So that You ſee, the *Reſolution* of the *Houſe* ſtop'd no Enquiry about the Matter of *Fact*; the *ſtopping* and *opening* theſe *Letters*, which the now mention'd *Reaſon* againſt it aſſerts to be the *Main Ground* of the *Judgment* to be paſs'd: but only prevented the wandring into *Other* Diſquiſitions, which might have made the *Trial* to have laſted till this *Time*; and have turn'd it at laſt into a *Trial* of the *Miniſters* and *Officers* of the *Poſt*, by the *Priſoner* and his *Aſſiſtants*, inſtead of a *Trial* of the *Priſoner* for *Treaſon*; and could have ſerv'd no Purpoſe of Upright Impartial Judgment, upon the *Caſe* then before the *Houſe*. I have not mention'd, upon this *Head*, the great *Injuſtice* it would have been, to have obliged the *Clerks* of the *Poſt-Office* to have anſwer'd all the *Priſoner's* Queſtions; ſome of which were manifeſtly of ſuch a Nature, as that their *Anſwers* to them muſt have been *Self-Accuſations*, had They been guilty of any *Unwarrantable Proceedings*; and have ſubjected Themſelves to the *Penalties* of the *Law* relating to this Matter: Which *Reaſon* alone would, upon the Foot of *Common Juſtice*, have juſtified the *Lords* in diſengaging the

Clerks

Clerks from all Obligation to accuſe or hurt Themſelves.

Another *Reaſon* given againſt this *Reſolution*, is founded upon theſe Particulars, " That the *Houſe* could not *determine* this *farther Enquiry* to be *Unneceſſary* for the *Priſoner's Defence*, till He ſhould come to make the Application; That He ought to have Liberty of asking what *Queſtions* He ſhould think proper——without acquainting the *Houſe* what Uſe He intended to make of them —— That this is *eſſential* to *Juſtice*, and agreeable to the Practice of the *Counſel* againſt Him, in which the *Houſe* had allow'd Them." And the *Priſoner* Himſelf, in a very high Tone, deſir'd to be left the *ſole Judge* of what was *neceſſary* for his own *Defence*, and what Uſe to make of any of his own *Queſtions*; and the like. I have obſerv'd in effect, upon a former Occaſion, that if all *Priſoners*, in their *Trials*, could demand (in Juſtice) the Delay of their Sentence, whilſt They themſelves could invent *One Queſtion* to ask, or one *Propoſal* to make, under the Pretence that They thought this *Queſtion*, or this *Propoſal*, neceſſary for their *Defence*, and that They were the only *Judges* of what was ſo,——Few *Trials* could ever come to an End. There muſt be a *Meaſure* laid down for ſuch Things: and to ſay that it is *impoſſible* to judge any *Point* to be *Unneceſſary* to the *Priſoner's* Defence; however it may ſound; yet does not rely upon any reaſonable Support. Let Us take the Inſtance now before Us.

If the *Priſoner* had propoſed by any of his farther *Croſs-Queſtions* to have ſhewn that the *Clerks* of the *Poſt-Office* had given falſe *Teſtimony* to the only *Fact* in Queſtion; and that the *Originals* of theſe *Letters* were NOT ſtop'd, nor open'd, nor copied, at the *Office*; Injury had been done Him, to have prevented the *Anſwer* to ſuch *Queſtions*. But when He goes on to ask, How came You to open theſe *Letters?* By what *Authority?* By whoſe immediate *Order?* and the like; it cannot be unjuſt to *ſtop* Him. If any one asks, How do you *know* but that this is *neceſſary* to the *Defence* of the *Priſoner?* I anſwer, I know it evidently, thus: becauſe, whatever the *Reſult* of ſuch farther *Enquiries* be; it is *all one* to the *Point* that affects the *Priſoner*. If it ſhould appear that the *Clerks* and *Others* had acted *illegally*, in coming at theſe *Letters*: yet ſtill the *Letters* were in *fact ſtop'd* and *open'd*; and are *Evidences* againſt the *Priſoner*, of the ſame Force exactly, as if They had been ſtop'd *legally*, and in all due Form. Juſt as it is in another Caſe. Suppoſe a Perſon ſhould by *Violence, without Authority*; or by *Warrant* from a *Juſtice* of *Peace*; break into *Another* Man's Houſe, and *ſeize* in it *Papers*, or any other Things, which ſhould be produced afterwards as Proofs of ſome great Crime againſt Him; the *Priſoner* would not be allow'd in his *Trial*, to ask by *what Authority* they were ſeiz'd; or, to enter into *Enquiries* upon the *Legality*, or due *Form* of the *Warrant* by which it was done: But if He could prove that theſe Things were *not ſeiz'd* in *his Poſſeſſion*, this would juſtly be allow'd; and this only would be judg'd *neceſſary* to his *Defence*. Nothing farther than this, in ſuch Caſe, can be *Eſſential to Juſtice*; which muſt be render'd precarious, and even ridiculous, if every *Individual Enquiry* which a *Priſoner* can invent, to aſperſe Others, inſtead of clearing the Difficulty in *Queſtion*, can come to be made a *Neceſſary Branch* of it.

As to the *Counſel for* the *Bill*, no doubt They were allowed to ask their *Queſtions*, and examine *Evidences*, without declaring to the *Houſe* the *End* aim'd at, in *Every Individual Queſtion*; becauſe the Nature of *Trials* requires this Method of Proceeding, that the ſumming up, and applying the Evidence, come in Order *laſt*. But the *ſame* was allow'd the *Priſoner* likewiſe; and I will add, within the ſame Bounds too. For if the *Counſel* againſt *Him* were never *ſtop'd* in their *Enquiries*, it was becauſe their *Enquiries* were always within due *Limits*, and reſtrained to the *Facts* before the *Houſe*, upon which the *Judgment* was to rely: and if it had been otherwiſe, and They had launch'd out into *Diſquiſitions* about the *Rules* and *Methods* of carrying on *publick Affairs*, in the *Secretaries Office*, or the *Poſt-Office*; I don't doubt, They would *not* have been permitted to have gone on, but call'd upon, with ſome Severity, to keep ſtrictly to the *Point* before them.

In a Word, As it was allow'd that the *Judgment* of the *Lords* was to depend much upon the *Fact*, whether theſe *Letters* were TRULY *ſtop'd* and *open'd* at the *Office*, or not; and as no *Stop* was put to the *Priſoner's Enquiries*, till after the *Clerks* had given their *Evidence* upon *Oath*, as to this *Fact*, and been queſtion'd upon it; nor till He wandered to thoſe *Circumſtances*, which did not at all alter *his Concern* in it; and as *All Lords* were ſtill at *Liberty* to judge whether *Full Proof* had been given of this *Fact*, or not: Certainly, Nothing can be imputed to this *Reſolution*, but what was for the *Honour* of the *Lords* who made it; That in it *They* ſhew'd the Concern due to the *Safety* of the *Publick*, and the *Juſtice* due to the *Priſoner*, at the ſame time; and that They gave Him, in the preſent Point, all the *Indulgence* neceſſary to the *clearing* Himſelf; and ſtop'd Him in *Nothing*, but either a *Wantonneſs* of *Queſtions*, wholly impertinent; or a Deſigned Attempt of aſperſing *Others*, rather than clearing *Himſelf*.

The *next Complaint* is much of the ſame Nature, p. 4—viz. " *The not ſuffering a Perſon, who had been at leaſt Ten Years out of the Secretary's Office, to anſwer any Queſtions, about Matters which came to his Knowledge by means of his having been in that Office.*"——This again is thus far true, that Mr. *Lewis* (who had been *Secretary* under the laſt *Adminiſtration* of the *late Queen's* Reign) being call'd to the *Bar* by the *Priſoner*, and ask'd a *Queſtion*; it was judg'd by the *Houſe*, that a *Gentleman* who had been in a *Poſt* of ſuch Importance to the *State*, ought not to give an Account

count of *Matters* which came to his Knowledge by his having been intruſted with Buſineſs of the higheſt Nature; and which, being ſo long ago paſt, could not directly, or in any degree, affect the *Priſoner's* preſent *Guilt* or *Innocence*, with regard to the *Treaſon* laid to his Charge. But, leſt the *Reader* ſhould think this *Complaint* of greater Importance than it was, I will acquaint Him, that the Whole of the *Priſoner's* Deſign here, appear'd to be no more than to prove that *ſome Perſons* Hand-writing had been exactly *imitated* by *Others*. Accordingly, He ask'd Mr. *Lewis* this weighty *Queſtion*, *Whether He did not once know a Perſon* (naming his Name) *who was very exact at this Imitation?* And it was very remarkable that, *after* the *Reſolution* of the *Houſe* was declared to Mr. *Lewis*, He took upon Him to tell the *Lords* a long Story of what had paſs'd, and what He had ſeen of *This*, when He was in the *Secretary's Office*; and that the *Lords* (ſo much complain'd of) had the *Patience* to hear their own *Order* broke, as ſoon as it was made; and *ſuffer'd* Him to anſwer, at full Length, about this very *Matter*, which came to his Knowledge by his having been in that *Office*; and to give a tedious, and to the Cauſe in Hand an impertinent, *Account* of the Dexterity of a *Man* in imitating Hands, who Himſelf had been dead *many Years* ago.

What the *End* of the *Priſoner* could be in all this, unleſs to ſhew his *Unwearieduefs* and *Sagacity* in asking *Queſtions*, One can hardly imagine. For no *Letters* pretended to be in the *Priſoner's own Hand*, were now laid to his Charge. And as for Mr. *Kelly*; neither *He* nor his *Witneſſes* would allow any ſort of *Similitude* to Mr. *Kelly's* Hand-writing, in thoſe charg'd upon *Him*: Nor did *He* accuſe the *Adminiſtration*, or any employ'd by Them, of any *Imitation* of his *Hand-writing*. And I preſume, had it been otherwiſe, it would have made but a poor Appearance of Argument, for the *Priſoner* to have urged, "There was a Man alive, *above ten Years* ago, that Mr. *Lewis* employ'd to imitate a *Gentleman's* Hand; (for that was what Mr. *L.* teſtified concerning Himſelf;) therefore, there is *One* now employ'd by *Others* to the ſame purpoſe:" Or thus: "There is a *Poſſibility* of *imitating exactly* the *Hand-writing* of *Perſons*; therefore, the *Letters* now in Queſtion were all forged in the exact Reſemblance of Mr. *Kelly's* Hand:" Or thus, "There has been *Forgery* in theſe Affairs *ſometimes*; therefore, there is *Forgery* in them *always*." This Way of Arguing would, I believe, have been accounted very miſchievous to *Truth* and *Juſtice* in all *Courts*; as ſerving only to deſtroy all *Moral Certainty*, by virtue of a bare *Poſſibility* of *Error*; and to invalidate all *Teſtimony* in many very *important Queſtions* relating to the *Rights* and *Properties* of Mankind. And beſides, it muſt have ended to the Prejudice of the *Priſoner* Himſelf; and his Friend Mr. *Kelly*. For, as this *Allegation* muſt go upon a tacit Suppoſition that the *Three Letters* charg'd upon Mr. *K.* as *his Hand-writing*, were forged in *exact Imitation* of it; *This*, unleſs ſome Proof could be added of the *Fact*, could not but have led his *Judges*, from this expreſs Allowance that they were *exactly like* his *Hand*, to believe them really to be *his Hand-writing*. And indeed, *This* I take to be the *Reaſon* why no Manner of *Uſe* was made, either by Mr. *Kelly*, or by the late *Biſhop* Himſelf, of this pretended great Art of *counterfeiting Hands*; or of all the ſeveral *grave Queſtions* ask'd, and *important Hints* given, upon that *Subject*. For all ended, without a Word of *Application* to the *preſent Caſe*.

BRITANNICUS.

PAPER IV.

THE *Fifth Complaint*, made by the *late Biſhop* of *Rocheſter*, relating to his *Treatment* in the *Houſe* of *Lords*, is, *The Reading Examinations neither dated, ſigned, nor ſworn to.* p. 4. This is expreſs'd ſo, as to lead the *Reader* to imagine that there were *ſeveral Papers* of this ſort *read* at his *Trial*; whereas there was but *One* that can be here meant. This was the *Examination*, or rather *Confeſſion*, of *Neynoe*; drawn out of *Three* other Papers; read *twice* to *Neynoe*, diſtinctly Sentence by Sentence, at the *Committee* of *Counſel*; and own'd, every Word of it, by *Him* to be *True* before the *Lords* of the *Committee*, who all atteſted it: not indeed *ſign'd* or *ſworn* to, for this Reaſon alone, becauſe He pretended to be at that Time preparing a more full and perfect *Confeſſion*, which He would both *ſign* and *ſwear* to. But, I muſt here refer the *Reader* to the *Remarks* upon Mr. *Kelly's Speech*, relating to *Neynoe*: and to what muſt ſoon follow, when I come to that Part of the late *Biſhop's* Defence, in which He ſets Himſelf to invalidate this *Evidence*. But as to the *Reading* this *Paper* at the opening of the *Trial*, it is enough to obſerve that it was not read with any falſe or deceitful Appearances added to it; but on each Side, underſtood and allow'd to be accompanied with the *ſame* Circumſtances; to be the *Paper* of a Man now *dead*, not *ſign'd*, not *ſworn to*; and the like: and, (what ſtill more ſhews the little Ground there was for this *Complaint*,) that it was permitted to the *Priſoner*, in his *Defence*, to *read* the *Three* former Papers of *Neynoe's*, tho' neither *ſign'd*, nor *ſworn to*; in order to make what *Obſervations* from Them He thought proper, to invalidate the Force of this *Fourth* Paper, upon which alone his *Accuſers* laid any Streſs.

The next *Complaint* is, *Reading* Letters *ſuppoſed to be Criminal, writ in another Man's Hand, and ſuppoſed to be dictated by the* Priſoner, *without* offering *any Proof that He either dictated them, or was privy to them.* p. 4. This *Complaint* is expreſs'd with ſome *Obſcurity*. One of the *Learned Counſel* for the *Bill*, in his *Reply*, ſeems to underſtand it, as a *Complaint* that *no Proof* had been given of his having had the leaſt Concern in the *Treaſonable* Letters *writ* in Mr. *Kelly's* Hand.

Hand. But I presume, the *Prisoner* would have been so far from *complaining* of This, as an Instance of *Unjust Treatment*; that He would have been *thankful* for it, as an *Instance* of the *Justice*, or *Blindness*, of his *Prosecutors*; and that He would not have put it into the *Catalogue* of his *Complaints*, but of his *Triumphs*. Besides, the *Complaint* is not that NO *sufficient Proof* had been actually made thro' the *Trial*; but that *No Proof* at all had been *offered*; which must refer *only* to the *Time* of *reading* the *Letters*. And therefore, As He is in this Place *complaining*, not of the *Weakness* of the *Evidence* produced; but of several Instances of *Unjust Treatment*; I suppose, He must intend by *This*, that these *Criminal Letters* had been *read* in support of an *Accusation* against Him, without a *previous Proof* that He had either dictated them, or was privy to them; and that his *Meaning* was to lay it down, That there ought to be a *Proof* made of a *Prisoner's* Concern in any *Letters*, BEFORE such Letters are read *against* Him. In the *former* Sense, Mr. *Wearg* very well observes, That this *Complaint* begs the *Question* entirely, upon the whole *Trial*; and supposes *No Proof* given, thro' the Course of it, of what was the *only Point* of any great Importance against the *Prisoner*: and therefore, is too absurd to be supposed to be the *Meaning* of it from *One* who in his *following Defence* directly sets Himself to *answer* the *Proofs* alledged for that very *Point*.

In the *latter* Sense, (which yet must be the true one) the *Complaint* is *frivolous*, I own, to a degree almost of *Absurdity*. For of what Importance is it to the *Innocence*, or *Guilt*, of a *Prisoner*, whether the supposed *Proofs* of his *Concern* in *Treasonable Letters*, are made *before* the *Letters* are read, or *after*? The *Prosecutors* of the *Charge* read those *Letters*, under a double Consideration: as *Letters* which manifestly proved in general a *Conspiracy* on foot; and as *Letters* which They should, in the *Course* of the *Trial*, bring *Evidence* to prove to have been dictated to Mr. *Kelly* by the *Prisoner*. And since it could not affect either the *Method*, or *Clearness*, of the *Prisoner's Defence*, whether They produced their *Evidences* of this particular *Charge*, *before* the reading the *Letters*, or *after*; No *Injustice*, or *Hardship*, could possibly be done to *Him* in this Case: and therefore, no Ground given Him for the least *Complaint*. On the *other* Hand, It may be supposed very right, on many Accounts, for the *Prosecutors* to chuse the *Method* of *Proceeding* They did; particularly, because Some of the Proofs of a Person's Concern in any *Letters*, often arise from the *Internal Characters* of them; from some *Expressions*, or *Circumstances*, contain'd in them, which help to fix them upon Him; which sort of *Proofs* cannot arise but *after* the reading and considering the *Letters*: and because, in the *other Method*, the *Evidence* upon the whole, must have lain in a less compact and methodical Compass; and its several Parts have been much more *disjointed* and *dispers'd* from one another. I should not at all wonder therefore, at the *Prisoner's* wishing the *Counsel* had taken a less effectual Method than They did: but I should indeed, wonder at *His* making their *Prudent Conduct* the *Subject* of a *Complaint*, if I had not learnt that a very *Weak Defence* from a *Real Accusation* sometimes seems to be help'd out even by a *Weaker Complaint* of any *pretended Hardship*; because the *Passions* of Many make Them much more attentive to the *One*, than regardful of the *Other*.

The *next Complaint* of the *Prisoner* is, *Not allowing* Him *Copies of the* Decypher'd Letters, (*tho' petition'd for,*) *till the Trial was so far advanced, and* He *so employ'd and weaken'd by it, that He had not sufficient Time to consider them.* p. 4. But in this *Complaint*, I must freely say, I know not whether most to admire the *Artfulness* of *one* Part of it; or the *Falsehood* of the *Whole*: Both of them little becoming the Character of *Him* who made it! The *Artfulness* lies in the *Choice* of *Words*, which, *literally taken*, cannot be said to signify an *Untruth*; but yet which deceive and impose upon the *Reader*, as much as if They did, by giving Him a *Notion* of the *Thing* as distant from the *Reality* of it, as *Falsehood* is from *Truth*. In the first place, That the *Prisoner* ask'd for the *Original Decypher'd Letters* themselves to be put into his Hands, in order to examine the *Truth* of the *Interpretation* put upon them by the *Decypherers*; is, I believe, true. Whether He ask'd for *Copies* of them, at first, I am not certain. If He did, then this first Part of his *Allegation* is literally true, *That He ask'd for Copies of those Letters*. But in the next Place, that *Copies* of them were not *allowed* Him, *till the* Trial *was so far advanced, and He so weaken'd by it, that He had not sufficient Time to consider them*, is at best a Gross *Prevarication*, and Unworthy *Misrepresentation*; which cannot do *Him* nor his *Cause* any Service, proportionable to the Mischief and Scandal, the *Detection* of such *Low Art* must bring alone with it. The *Fact* was thus. The *Prisoner* Himself (I remember it very well, because the *Aire* and *Manner* of his speaking made an Impression upon Me;) *He Himself* stood up, and declared, in his usual Tone, that He saw enough, by casting his Eye upon the *Decypher'd Letters*, as He stood at the *Bar*, to make Him confident They were not *rightly* interpreted. And, *My Lords*, (this was his very manner of Expression) "Let Me but have Copies of them "this *Evening*; and I undertake, by *To-morrow* "*Morning*, Myself to demonstrate to You, "that they are falsely *decypher'd*." Upon this immediately, *Copies* (true undoubted *Copies*, to his own and his *Counsel's* entire Satisfaction) were order'd to be deliver'd to *Him*. They were so: and He had not only his own *Great Skill* in that *Art* of writing in *Cyphers* to have recourse to; (which He really was so free as to own, and shew Himself in some degree a Master of;) but He had *then* in *Town* with Him, a *Person* from *Oxford*, very learned in the *Art*, and who without doubt was ready, as it was his

Duty

Duty to be, to give Him all the *Aſſiſtance*, which his *Skill* and *Labour* could afford Him. But what became of this *great Boaſt?* The next *Morning* came; and the whole Day paſt, and the *Houſe* heard nothing of the *Decypher'd Letters*: only at the *Cloſe* of it, (or of the *next*, I can't exactly remember *which*,) One of the *Priſoner's Counſel* let the *Lords* know, that They ſhould go upon that *Subject*, the next Morning. The *next Morning* came, and the ſame *Counſel* acquainted the *Houſe*, That the *Biſhop* would not give their *Lordſhips any Trouble upon that Head*; but reſt Himſelf upon the general Obſervations formerly made at the *Bar*, when the *Decypherers* were there. So that, You ſee, the *Priſoner* had the *Copies* of thoſe *Letters*, *a Day and a Night* (at leaſt) longer than He Himſelf had aſſured the *Houſe*, was neceſſary to *his own* ſhewing the Miſtakes of the *Decypherers* in interpreting them; that the doing this *effectually* did not depend upon *his own* Abilities, or at all fail by the Length of the *Trial weakening* Him; but depended upon a much more *Skilful Man* in that *Art*, who was all the while aſſiſting Him, and could have found out theſe manifeſt Miſtakes, if there had been any; and conſequently, that *This Complaint* at once is a manifeſt *Argument* of his own *Inſincerity*, and leads to an *authentick Teſtimony* to the *Truth* of the *Decyphering*. It is made by *One*, who at the Time of making it *knew* it to be *Groundleſs*; and dreſs'd it up in *Falſe Colours*: and it ends in this, That the moſt *Skilful Man* He could ſummon was not able to find One *Error* in the *Decyphering*, worth mentioning to the *Houſe*.

Before I leave this *Subject*, I will add one *Obſervation* more, *viz.* That this ſame *Complaint* will itſelf furniſh a *Proof* that the *Art* of *Decyphering* is not of that *Uncertain Deceitful* and *Precarious* Nature, that ſome Perſons were willing to make it, whilſt the *Fate* of the *Priſoner* depended in any Meaſure upon it. *He Himſelf* aſſured the *Houſe*, that He ſaw ſo much into thoſe *Letters*, that He could undertake Himſelf to *demonſtrate* their being *falſly decypher'd*. And this ſubſequent *Complaint* goes upon this Suppoſition, that if He had had *Copies* of them earlier in the *Trial*, He could have done it. All this amounts to a plain Acknowledgment that there are *Rules* belonging to that *Art*, which have a *Certainty* in them, tho' neglected or tranſgreſs'd by *Some* in their *Operations*. Juſt as it is in *Arithmetick*. No One can undertake to ſhew the *Errors* of *Another* in any *Arithmetical Operation*, without ſuppoſing there are *Rules* belonging to that *Art*, which are in themſelves *Certain*, tho' *tranſgreſſed* by particular Perſons. Nor is this ever eſteem'd any *Reflection* upon the *Art* itſelf; but only upon *Thoſe* who profeſs it, and fail in their Application of its Rules. This will help to ſhew Us, in what Senſe the *Art* of *Decyphering* may be ſaid to be *Uncertain* or *Deceitful*, viz. ſolely, as it is profeſs'd and exerciſ'd by fallible *Men*, who through haſte, or inadvertency, *may err* in their *Operations* in *that Art*, as well as in *Arithmetick*; but not conſider'd in itſelf, as it is founded upon numerous *Rules* and *Methods*, which, when applied by different *Perſons*, and in repeated *Trials*, cannot *all* be ſuppoſed ever to coincide and centre in a Senſe which is not the *Real Senſe* of the *Writer*. Accordingly, *Both* the *Decypherers*, employ'd by the *Adminiſtration*, (who had at a great Diſtance from One Another agreed in the *ſame Senſe* of the *Cyphers* uſed in theſe Letters,) did declare, that They looked upon the *Art* as having a *Certainty* in it, which might in ſome Senſe be call'd *Mathematical Certainty*: They had for many Years tried it, by the Rules They had laid down, and it had always anſwer'd: That They had undergone Multitudes of *Trials*, to convince *Themſelves* and *Others*, and that they had *all* ended to their Satisfaction, and in the *Diſcovery* of the very *Key* by which thoſe *Cyphers* deſign'd to prove their Skill were form'd, and acknowledg'd ſo to be by Thoſe who form'd them. Nor did the *Priſoner* Himſelf, at laſt, inſiſt upon the *Uncertainty* of the *Art*: Nor had his own *Decypherer* ſo little *Judgment* as to furniſh any *Argument* to that Purpoſe. He would have proved the Letters *falſely decypher'd*, if He could. But if He *had done* this, He would only have ſhewn *Himſelf* a *greater Artiſt* than Thoſe on the other Side: and This (as in the Caſe of *Arithmetical Operations*) would have been to the *Glory*, and not the *Diminution*, of the *Art* itſelf.

I have thought it proper to ſay thus much, becauſe *this Point* has been much *miſrepreſented*, eſpecially by the *Advocates* for the *Priſoner* without Doors; who have *falſly* laid it upon the *Decypherers* themſelves, That They allowed their *Art* to be *Deceitful* and *Uncertain*; whereas Neither of Them allowed any thing, but that there might be an *Error* committed by *Themſelves*, in their *firſt Trials*, which itſelf is corrected afterwards by their own Rules. Thus Mr. *Willes* candidly acknowledged that He had miſtaken *Two Words*, (*Care* for *Concern*, and *provide* for *procure*, or the contrary) but *both* much to the ſame Senſe. But this did not make Him accuſe the *Art* itſelf of being *Uncertain* and *Deceitful*. And that the *mere poſſibility* of *Miſtake* is no *Argument* againſt the *Teſtimony* given upon *Oath*, in *Courts* of *Judicature*, by *Perſons* skill'd in this *Art*, and allowed to be canvaſs'd by *Others* profeſſing the *ſame Art*, is plain, becauſe this *Argument*, if allowed, would tend to deſtroy all *Teſtimony* of *Witneſſes*, founded even upon their *Senſes* of *Seeing* and *Hearing*: For *theſe Senſes* may be proved, by a *thouſand Inſtances*, to have been frequently and groſsly deceived; and therefore, not *infallible*; and therefore, not to be depended on. Such *Reaſonings* are utterly inconſiſtent with the *Well-Being* of *Humane Society*. But as for the wretched *Miſrepreſentations* of *this*, and every other Part of this *Trial*, in *Papers* without Doors, One cannot long wonder at them, when One ſees, in the *ſame Papers*, *all* the Laws of

of *God* and *Man* violated every Day, rather than *Treaſon* ſhall not be vindicated; and the faithfulleſt *Servants* and *Friends* to their *King* and *Country*, beyond all Example, and without all Truth, abuſed and expoſed to *popular Rage*.

The *laſt Complaint* is, *The not allowing the* Priſoner *to read out of the* Collection *of* Papers *before the* Houſe, *any Part of them in order to diſcharge* Himſelf, *but what had been read by the Clerks*. To which I ſhall only ſay, It is in *part falſe*, and in the *whole* entirely *groundleſs*. *Falſe*, becauſe *He* was *permitted* to *read ſeveral* of thoſe *Papers*, which were *not read* on the other Side; particularly the *Three firſt Examinations* of *Neynoe*, — the *Papers* taken in *Neynoe*'s Pocket, — the *Certificate* of the *Surgeon* ſent over by Mr. *Crawford*: and *Falſe* again, becauſe He was told He might *read any* of thoſe *Papers*, which He could think neceſſary to his *Defence* from the *Charge* which was actually laid againſt Him: and *Groundleſs*, becauſe He was only refuſed the *reading* of *One Paper*, upon his own Acknowledgment that He deſired it in order to raiſe an *Objection*, or make his *Defence*, NOT againſt what the *Bill*, or the *Counſel* for the *Bill*, had at all laid to his Charge; but againſt quite *Another* Point, not in the leaſt inſiſted on, or urged againſt Him. Let the World judge, whether *This* were hard or unjuſt, to keep the *Priſoner* to the *Charge* which *was made* againſt Him, and not to ſuffer Him at his own Pleaſure to wander to a *Charge* that *was not made* againſt Him: *that is*, to allow Him every thing neceſſary for his *Defence* againſt the *Former*, which was the ſole Point of Concern to Him; and only to *debar Him* from abuſing the *Patience* of his *Judges* with what was of no more Importance to the *Bill*, than if He had deſired to read *Proofs* of his being a *Proteſtant Biſhop*, or any the moſt diſtant Point imaginable.

We are now come to an End of his *Complaints*, by which He intended to enter into the *Compaſſion*, not ſo much of his *Judges*, who knew how groundleſs They were, as of the *World* afterwards. I have been the more particular in conſidering Them, becauſe *They* are apt to *move*, more than *Argument* is to *convince*: and becauſe, it is much more fit His *Judges* ſhould be *juſtified* in what They did *right*, than that He ſhould be *pitied* for what He repreſents *wrong*; and laſtly, becauſe Thoſe *Excellent Arguments*, now in Print, in Anſwer to the *Priſoner's Speech*, do hardly at all concern *Themſelves* with the *Complaining Part* of it.

BRITANNICUS.

PAPER V.

SINCE the *Writing* of my laſt, Mr. *Wynne's Defence* of the *late Biſhop* of *Rocheſter* is come to my Hands. And finding that in p. 17. He ſets Himſelf to confute the *Evidence* againſt his *Client*, taken from the *Art* of *Decyphering*, of which I ſaid a good deal in *that Paper*; I thought my ſelf obliged not to paſs over what He alledges, upon a *Subject*, I had undertaken to conſider; tho' in Truth He only touches upon it very ſlightly and tenderly. He begins his *Argument* with a Name of very great *Authority*. "Dr. *Wallis*, (ſays He) who is allowed to be "the *Father of the Science*, (ſuch as it is,) and "was the Wonder and Envy of all Foreigners, "directly owns that the Whole was built up- "on *Conjectures*, and He that had the beſt *Gueſs*, "was the beſt *Artiſt*. Such, my Lords, is the "Science of *Decyphering*. And, from ſuch *Un-* "*certain* and Conjectural *Premiſſes*, what Cer- "tain Concluſion can be drawn? — And 'tis "plain Mr. *Willes* is not ſo *infallible* as He pre- "tends to be, by that *Number* of Paſſages not "yet decypher'd." After which He *inſinuates* ſomething againſt its being allowed as *Evidence* in any *Trial*. But this way of Repreſentation is not at all exact. Dr. *Wallis* was a very *Great Man* in all reſpects, and a very great Maſter of *Decyphering*; but never could be thought to be the *Father* of an *Art*, which was in Being *many hundred* Years before He was born. He knew it, and had experienced the *Truth* of it, in Multitude of *Important Trials*, too well, to ſay that the *Whole was built upon Conjectures*, in any ſuch Senſe, as would repreſent it a mere Imaginary, Slight, Deceitful *Art*. In *another* Senſe, it may indeed be juſtly ſaid to be founded upon *Conjecture*; as the *Firſt Trial* of an *Artiſt* to find out the *Key* to a *Cypher*, may be call'd *Conjecture*, or *Gueſs*; which *Conjecture* He tries by his *Rules*, applied to the *whole Writing*, and does not receive it as *Truth*, conſider'd at his *Conjecture*, but only as it ſhall be found to *anſwer exactly* in all reſpects, applied according to the *Rules* of his *Art*. If it does not ſo anſwer, He has recourſe to *Another* and *New Conjecture*, till He meets with *One* that does; or till He finds by the ſame *Art* the *Diſcovery* to be impoſſible. But indeed, the *Whole* of this is a *Satire* upon Dr. *Wallis*, under the Pretence of a *Compliment*. For He little deſerv'd to be ſtil'd the *Wonder* or *Envy* of *Foreigners*, or the *Admiration* of his own *Countrymen*, if He could ſpend ſo many weary Hours of *hard Study*, in an *Art*, which He Himſelf, according to Mr. *W.* muſt have eſteem'd ſo contemptible, as to be unworthy of a *Wiſe Man*; and in aſſiſting the *State* in *Diſcoveries*, which it muſt have been unworthy of a *Good* and *Honeſt* Man to have done, if He had thought them founded upon *Nothing* but *Vain Conjecture*, and *Uncertainty*.

With the ſame *Juſtice*, Mr. *Wynne* repreſents Mr. *Willes*, as pretending to be *Infallible*: Whereas, on the contrary, He had own'd, that it was poſſible for *Himſelf* to err; but this, without diſgracing the *Art* itſelf, as an *Uncertain*, *Deceitful Art*. As to the *Number* of *Paſſages* ſtill left *undecypher'd*, (by which Expreſſion, a Common Reader would imagine ſome *important Defect* to be meant;) Let Any One but look into the *Report*, and particularly upon the *Three Treaſonable Letters* in *queſtion*, and

and He will ſee preſently, by the *Strokes* made where the *Undecypher'd* Words were, of how ſmall Account, as to the *Whole*, thoſe are. But, as far as the *preſent Objection* againſt the *Art* is concern'd, This is not the leaſt *Proof* of the *Uncertainty* of it. This ſhews indeed, that there are *Cyphers*, which come ſo ſeldom over in the *Correſpondence*, or are ſo artfully framed, that the *Decypherer* could not be *poſitive* what They ſignified; tho' in this Caſe, He was well ſatisfied what They *probably* meant. And Who ever denied this? Nay, Who ever denied that it is *poſſible* to frame even an *Entire Correſpondence* in *Cyphers*, which ſhall not be detected? But this does not ſhew, that the *Art* of a particular Man, as far as it reaches and profeſſes to go, is *Uncertain* or *Deceitful*; no more than it would prove *Mathematical* or *Aſtronomical Knowledge*, as far as it reaches, to be *Deceitful* and *Uncertain*, to alledge that there are *ſome Things* ſtill out of the Reach of the greateſt *Mathematican* and *Aſtronomer* of this or former Ages.

But I would not have it thought, from my uſing the *Inſtances* of *Arithmetick* or *Mathematicks*, that I put the *Art of Decyphering* exactly in the ſame Rank. I have only made uſe of Them, to ſhew the *Frivolouſneſs* of the *Objections* made againſt that *Certainty* in it, which it is reaſonable, and agreeable to all other *Maxims*, in *Affairs* and *Trials* relating to *Humane Society*, to receive, and acquieſce in, as a ſufficient Ground of *Judicial Proceedings*; unleſs overturn'd by *contrary Evidence*, or *contradictory Circumſtances*. And I will add one *Obſervation*, which I ſhould hope might have ſome Weight, *viz.* That if the *Art* of *Decyphering* be judg'd to have ſo little of *Certainty* in it, (when duly applied and examin'd,) as to make it *Unjuſt* and *Unrighteous* to build any thing upon it in *Judicial Proceedings*; then, *Every Government*, and *Every Civil Society* in the World, muſt of Neceſſity be undone, without any *Remedy* to be had from all the *Beſt Laws*, which the *Wiſeſt Heads* could contrive, or put in Execution. The Reaſon is plain: becauſe, upon this Suppoſition, All *Traitors* and *Conſpirators* might *ſecurely* carry on the Worſt of their Deſigns, by enjoying the Benefit amongſt Themſelves of a *Correſpondence* in *Cyphers*; whilſt the *Government* that is to be deſtroy'd by it ſhall have no Poſſibility of acting, till the *Blow* is ſtruck, without tranſgreſſing the Rules of *Juſtice*; if it be *Unjuſt* to take *That* for the *Meaning* of *Letters* in *Cypher*, which ſeveral Perſons moſt skill'd in the Art of *Decyphering* ſhall agree, after repeated *Trials*, to be the *Senſe* of them. And it being *abſurd* to ſuppoſe that the *Caſe* of *Society* and *Government* can be left in ſuch Unhappineſs, that there ſhall not be, in the Nature and Reaſon of the Thing, a *Security* for it againſt the *Ruin* of *Treaſon*; it muſt therefore be true, that a *Government* is juſtified in having Recourſe to the *only Method* of detecting *Treaſon* under the *Covert* of *Cyphers*; and that *that Method* is as juſt and well-founded, as it is *uſeful*, and abſolutely *neceſſary*. This Conſideration has made Me the longer upon this *Subject*; becauſe if this ſort of Evidence be exploded, there is an End of all Hope of *Safety* to any *Government* in the World.

Before I wholly leave the *Head* of the late *Biſhop's Complaints*, I muſt not omit what He alledges at the *End* of them, as an *aggravating Circumſtance* of all theſe *Hardſhips* laid upon Him by his *Judges*, and at the ſame time, as a *great Inconſiſtency* in the *Conduct* of his *Proſecutors*, and the *Counſel* for the *Bill*. "And all "this (ſays He) in a *Proceeding*, where the "*Counſel* for the *Bill* profeſs They have *no Le*"*gal Evidence*, and that They are not to be "confined to the *Rules* of any *Court* of *Law* "or *Equity*; tho', as often as it is for their "Service, They conſtantly ſhelter Themſelves "under thoſe Rules." How true it is that the *Counſel* allow'd that *They* had no *Legal Evidence*, We ſhall ſee when We come to the *Remarks* upon this Method of *Proceeding*: where We ſhall find, in what particular Senſe *One* of the *Counſel* did allow *This*, whilſt the *Other* expreſsly and juſtly affirm'd the *Evidence* to be *Legal*, in the Place where it was produced. That in the Matter of *Evidence* before the *Legiſlature*, They ought not to be confined to the *Rules* of *Inferior Courts*, will come likewiſe there to be conſider'd. According to this *Maxim*, I have heretofore ſhewn, in Anſwer to his *Complaints*, that the ſame (or greater) *Latitude* was indulged to the *Priſoner*, which was allowed to the *Counſel* for the *Bill*; free from the *Reſtraints* uſed in *Inferior Courts*, and bounded only within the Limits of the particular *Charge* laid againſt Him, to which He was indeed, in ſome meaſure, confined; only not ſo ſtrictly, as in Juſtice He might, and ought to have been.

I ſhall only now ſpeak *one Word* upon that ſuppoſed *Inconſiſtency* here mention'd, and to my great Wonder, often in the *Courſe* of the *Trial* objected to the *Counſel* for the *Bill*, as if They unfairly took the *Privilege* of going into the *Methods* of the *Courts* below, whenever it made *againſt* the *Priſoner*; and of rejecting the ſame *Methods*, whenever They could be to *his Advantage*. Whereas the Caſe was nothing like this; and their *Argument* upon this Head juſt, and of quite another Frame. In the Proceſs of the *Trial* it was often objected to the *Counſel*, that the *Methods* taken by *Them* would not be allow'd in the *Inferior Courts* of *Weſtminſter-Hall*. The *Anſwer* was juſt and natural. "We allow this. But We are now in a *Place*, where all *Kinds* of *Evidence* have a *Right* to be produced; and where We are not at all confined by *Rules* framed for *Other* Places; but by *Reaſon*, and *Common Juſtice* only." When, on the other Hand, the ſame *Objection* happen'd, in the Opinion of the *Counſel*, to be applied in a *miſtaken Inſtance*; or when They could maintain that ſuch and ſuch *Papers* or *Evidence would be* received in *Courts below*; They had then a *Right* to argue unanſwerably, "This which

We now offer would be received *even* in the *Courts below*; *confined* as They are: much more ought it to be receiv'd in a *Place*, not confined by ſuch *Rules*." No *Two* Propoſitions certainly can be more *Conſiſtent* than theſe Two. " We have a *Right* to produce *This or That Evidence* before the *Parliament*, though the *Parliament* itſelf, or *Cuſtom*, has for the Convenience and ſhortening of *Trials*, forbid *Inferior Courts* to receive it; becauſe We are not *here* tied up to thoſe *Rules*." And again, " This or that Evidence certainly may of Right be produced before the *Parliament*, becauſe it would be allowed, even in an *Inferior Court*:" Which muſt be a *good Argument*, even to *Thoſe Lords* who were willing to confine *Themſelves* to the *Rules below*, as well as to *Thoſe* who were not; and therefore, very *proper* to be made uſe of at *Their Bar*, when there was a *Juſt Occaſion*. And This was *All* the ſuppoſed *Inconſiſtency*, all the *ſheltring Themſelves* under *Cover* of the *Inferior Courts*, that I could obſerve in the *Counſel* for the *Bill*; with which the *Priſoner* yet thought it worth his while, tho' very unjuſtly, to reproach Them. We are now coming to ſomething much more *Material*.

According to the *Diviſion* I at firſt made of the (late) *Biſhop* of *Rocheſter's* Defence into its ſeveral Parts; *after* his *Complaints* of *Unjuſt* and *Hard* Uſage at the *Bar*, next in order comes the *Fourth*, and indeed the *Principal*, *Head* of the *Whole*; and that is, " His *State* of the " *Charge* againſt Him, and his DIRECT *De-* " *fence* of *Himſelf* in Anſwer to it." I call it *Direct*, in Oppoſition to that *Indirect Defence*, taken from a Number of *Probabilities* urged againſt the *General Imputation*, which follows it, and will in its order, make *another Head* of *Diſcourſe*. I ſhould perhaps make ſome *Apology* for entring now upon a *Province*, in which the *Arguments* of *Both* the *Learned Counſel* for the *Bill*, and of a *Right Reverend Prelate*, now *publiſh'd* to the World, might well appear to make every *Attempt* of this ſort *Unneceſſary*, and almoſt *Inexcuſable*. But as I had begun my *Deſign*, before the *Publick* was happy in *their Thoughts*; and as all the ſeveral *differing* Lights, in which ſo *Important* an *Affair* can be placed, may be of great Uſe to *Different Perſons*; and as *theſe Papers*, may, in the Nature of them, come into Multitudes of *Common Hands* to which *All Others* do not reach; I have perſuaded Myſelf not to interrupt my *firſt Deſign* of going through *Every Branch* of the *Speech*, as it lies now before the World; and of *contributing* the *little* in my Power towards a *Right Judgment* concerning a *Procedure*, than which *None* ever was more *miſrepreſented*, or *miſunderſtood*.

The *Charge* (ſays the *late Biſhop*) is divided into *Two* Heads. *Firſt*, " *That I traiterouſly conſulted and correſponded with divers Perſons, to* " *raiſe an Inſurrection*, &c. *in this Kingdom, to* " *procure Foreign Forces to invade it*, &c. p. 4. In *Anſwer* to this, He might well have ſpared all the Pains and Time He ſpends in obſerving that " the *Counſel* for the *Bill* had not attempted to " prove Him at One *Conſultation*; that there " was nothing tending that Way, except the " exploded Story of the *Burford Club*, and two " or three *Hearſay Informations*." He might have ſpared his *Hiſtory*, how, often, or how ſeldom He had ſeen *ſuch* and *ſuch Lords*, whoſe Names were not ſo much as *mention'd* in *his* Cauſe: Nor need He have told his *Judges*, *when* and *where* He met Sir *H. Goring*; or what Profeſſion Sir *H.* deſign'd any of his Sons for; or what Engagements He had enter'd into with Him, to get his *Son* upon the Foundation at *Weſtminſter-School*. As *Nothing* leading to theſe *Important* Particulars, had been alledged by the *Counſel* againſt Him; ſo, if Any *Other Perſon* in the like Circumſtances had thus wandred from his Cauſe, except ſuch a *Genius* as *He*, who was already in Poſſeſſion of a Great Name for *Wit* and *Abilities*; I am fully perſwaded, ſuch *Digreſſions*, void both of *Uſe* and *Entertainment*, would not have been accounted *Arguments* either of his *Capacity* or *Dexterity*: Nay, I believe I may ſay, would have been number'd amongſt the *Impertinencies* of a *Guilty Man*. For there is but *One* Way of ſolving ſuch *Appearances*, That an *Innocent* Man needs them not; and that a *Guilty* Man only makes uſe of Them, in hopes of diverting his *Judges*, or his *Readers*, from the *Things* of *greater Importance* which touch Him too cloſe in the *Real Charge* made againſt Him. It was to *This*, which the *Counſel* for the *Bill* had, with all their Might, applied *Themſelves*. They laid the Streſs of their *Charge* againſt the *late Biſhop*, upon his having employed *Kelly* in writing *Treaſonable Letters*; and the like. This, when made out, They eſteem'd ſufficient Evidence of his being engaged in the *Deſign* and *Conſpiracy* charged upon *Him*, and mentioned in theſe very *Letters*, as a *Thing* in which *Others* had been concern'd with Him. But They laid no *Allegation* againſt *Him*, of any particular *Place*, *Time*, and *Company*, for *treaſonable Conſultations*; juſtly eſteeming Themſelves to have *enough* againſt Him, from *Other Evidences*, to prove Him *Guilty* of the *Charge*. And indeed, He ſeems, Himſelf, to be conſcious that He was here far *out of his Way*, and only *avoiding* the *Blow*. For when He comes to the *other* Branch of it, He introduces it in theſe Words, " The next, and the *only Material Part* of the " *Charge*, is *Correſponding* abroad with the *Pre-* " *tender*, &c." Let us therefore, at length, leave *Digreſſions* and *Amuſements*, in ſo weighty a *Point*; and come cloſe to that *Real Charge*; upon the *Evidence* or *Non-Evidence* of which, the *Guilt* or *Innocence* of the *Perſon Condemn'd*, as well as the *Juſtice* or *Injuſtice* of his *Judges*, muſt depend, in the Opinion of all Mankind. *This* will be the *Subject* of the *next Paper*.

BRITANNICUS.

PAPER

PAPER VI.

IN p. 5. the late *Biſhop* of *R.* comes to what He rightly calls *the only material Part* of the *Charge* againſt *Him.* And this He opens in the following Manner. " The true State of this " Part of My Charge, as well and as fully as " I can recollect, is this, (I will not in any de- " gree diſſemble before You:) 1ſt. That I did " the 20th of *April* 1722. dictate Three Let- " ters, to Mr. *Dillon*, the late Lord *Mar*, and " the *Pretender* Himſelf, under the feigned " Names of *Chivers*, *Muſgrave*, and *Jackſon*; to " which Letters the Names of *Jones*, *Illington*, " and 1378, were all by my Direction ſub- " ſcribed." This He makes *One Branch* of the *Charge* againſt Him; tho' it may indeed be in ſome Senſe call'd the *Whole*, being *That* upon which his *Innocence* or *Guilt* muſt depend. And therefore, I ſhall now conſider it as ſuch. The *Firſt* Step is, to *ſtate* it *right*: for I muſt take the *Liberty* to obſerve, that *Some ſort of Perſons* never deceive You more, than when They make Profeſſions of *not doing* it; and never *diſſemble* leſs, than when They aſſure You, They will not *diſſemble* at all. *Look carefully upon me*, (ſays the *Man* who deals in *Legerdemain-Tricks*,) *You ſee all is fair*; and immediately, puts the *groſſeſt* of all his *Deceits* upon You. *I will not* (ſays the *Biſhop*) *diſſemble* the Force of the *Charge*: and immediately, before your Face, as ſoon as He has ſo ſaid, He *ſtates* it in a Manner the moſt *diſſembling*; and *artful* enough, till it is detected. The *Charge*, if You will believe *Him*, was, That He did on the 20th of *April*, *dictate* the foremention'd *Letters*: Whereas, in truth, It was quite otherwiſe; and the *Real Charge*, if You will truſt *Thoſe* who made it, was, That He *dictated* Thoſe *Three Letters*, which were afterwards put into *Cyphers*, and dated *Apr.* 20. and ſo ſent away. There is ſo great a Difference between theſe *Two* Propoſitions, that I do not wonder, an *Accuſed Perſon* ſhould chuſe *That*, (as the *Charge*) to which He was moſt ſure of giving an *Anſwer*. According to the *former* of them, He repreſents his *Accuſers* as little better than *Ideots*, undertaking to prove the *Fact* of his having *dictated* thoſe *Letters* at ſuch a particular Time: which would have been the *Abſurdeſt Attempt* in the World, unleſs They had had the *Teſtimony* of *Him* to whom they were dictated; which They knew They had not. According to the *letter*, His *Accuſers* undertake to ſhew, that He did ſome Time or other, *before* the 20th of *April*, *dictate* thoſe *Letters*; that He was the *Perſon*, in whoſe Name They were writ; and privy to the writing and ſending them; and therefore, guilty of this *Correſpondence*.

In ſupport of *This Charge*, as I have with ſtrict Juſtice ſtated it, I ſhall now put into *Form* the *Evidence*, or *Proofs* of it: and then, conſider his *Defence*, and ſhew how *little* it affects the *true Charge*; or any other, than his *Diſſembled Falſe Repreſentation* of it: adding at this Time only one ſhort natural Remark, That, as *He* who could give a ſufficient Anſwer to the *Real Charge* made againſt Him, needed not to have invented and framed a *Falſe One*; ſo, *He* who has taken Refuge, at the very Beginning, in a *Wrong State* of the *Charge*, was conſcious He could give no *Anſwer* to *It*, fairly and *rightly ſtated*. The *Arguments*, as They appear to me, here follow. " Mr. *Kelly* wrote " theſe *Three Letters*. He wrote them in the " *Perſon* of the *late Biſhop*. Circumſtances in " them deſcribe *Him* to be the Perſon. The " *Names* ſubſcribed are the *fictitious Names* by " which the *Biſhop* was denoted in this *Cor-* " *reſpondence*. Mr. *Kelly* was an Acquaintance, " and Friend of the *Biſhop's*. Therefore, the " Guilt of the Correſpondence is juſtly fixt " upon the *Biſhop*, as employing Mr. *Kelly* to " write them." That Mr. *K.* wrote theſe *Letters* is proved, not only from *Witneſſes* to his *Hand-writing*; but (what is never to be evaded) from *Kelly's* calling at a *Coffeehouſe Himſelf*, for an *Anſwer* from abroad; and from his employing one *Andrews* to receive *Anſwers*; to which two *Particulars* He Himſelf has never pretended to give any *Reply*. That Mr. *K.* was an *Acquaintance* and Viſiter of the *Biſhop*, was proved and owned. Nay, It was acknowledged by the *Biſhop* that Mr. *K* furniſh'd Him with *Beaver Stockings* and *Gloves*: which not only proves an *Acquaintance*; but that the *Biſhop* was privy to his *Foreign Journies*, in which He procured Him theſe Things. But He gave no *Account* at all, how He came to have this *Free* Correſpondence with a *Young Nonjuror*, who had deſerted his own Profeſſion, and turn'd *Traveller* for the Good of the *Pretender's* Cauſe.

That the ſame Mr. *Kelly* did ſometimes write for the *Biſhop*, was plainly proved from a *Letter*, directed to one Mr. *Dubois*, found in the *Biſhop's* Houſe, in which it is expreſsly ſaid, That He had writ an *Anſwer* to a Letter from Mr. *Dubois*, IN the *Hand* of Mr. *Johnſon*, which was the Name Mr. *Kelly* own'd Himſelf to have aſſum'd. By what Accident this *Letter* was not ſent, but kept; with the *Seal* of it broken in the Middle; does not appear: But the *Fact* is beyond diſpute, that ſuch a *Letter* there was, written in a feign'd odd Hand, with a *few peculiar Letters* like the *Biſhop's*; and ſeal'd with the *ſame Seal* with *That* of the *Letter* which was ſeiz'd coming from Him at the *Tower*. That *this Letter* to *Dubois* was, in the *Biſhop's* own Opinion, a *ſtrong Proof* of his making uſe of Mr. *Kelly* as an *Amanuenſis*, was put beyond all diſpute with me by *his own* Way of anſwering to this *Allegation*; and to the *Identity* of *Seals* upon this *Letter* to *Dubois*, and upon *That* from the *Tower*, which He own'd to be his own *Hand-writing*. For We ſee, the *Two Queſtions* which pinch Him upon this Part of the *Evidence*, are theſe. 1. What *Account* is to be given of *this Letter* found in *his Houſe*, in which Mention is made of his anſwering (not BY but) IN the *Hand*

Hand of Mr. *Johnſon?* 2. What *Account* is to be given of the ſame *Seal* being upon a *ſubſequent Letter*, acknowledged to be the *Biſhop's*, which was upon *This* to *Dubois?* To the *former* Difficulty, No *Anſwer* could be got from the *Biſhop*, but, in a high Tone of Voice,—"I "know nothing of this Letter. They that "found it in my Houſe, can beſt tell how it "came there. Beſides, My *Accuſers* have not "known what to make of it. By the *Com-* "*mittee* of the *Houſe* of *Commons*, it was ſup- "poſed to be a *Letter* TO Me: Now, It is "treated as a *Letter* FROM Me. I know no "ſuch *Perſon* as *Dubois*, or any One who went "by that Name:" Which was the Subſtance of what He ſaid in his *Speech*; and afterwards in a more diſturb'd Manner, when He had the Liberty to ſpeak again after the Counſel for the Bill had finiſh'd their Replies. But, How abſurd all this is, I need not ſay; or how little becoming either an honeſt, or an ingenious Man. What! *Miniſters*—forge a *Letter* for the Support of an *Accuſation*, and make it ſo obſcure as *This!* and then, direct it to *One*, by a Name, not mention'd in the whole Correſpondence beſides! and this, before They had determin'd amongſt Themſelves, what Interpretation to put upon it! before They had reſolved what uſe to make of it! and then, convey it into his Houſe with the *Seal* broken! and, all this Time, the *Letter* not forged either in *His* or any other *Perſon's* proper Hand, throughout the Whole of it;——Theſe are *Impoſſibilities* utterly incredible in the Way of *Forgery*; and utterly deſtructive to the *Cauſe* of *Him*, who had the Vanity to think to put them upon his Judges. For the Argument returns upon his own Head, unanſwerable. If the *Miniſters* did *not forge* this Letter; (which it is the higheſt Abſurdity to ſuppoſe, upon the foregoing Reaſons;) then, it was a *Letter* really found in the *Biſhop's* Poſſeſſion; (which was likewiſe proved by the *Oaths* of Thoſe who ſeiz'd it;) and, if it was a *Letter really found* in his Cloſet, of which He can give no *other* Account; and a *Letter*, with ſome few peculiar *literal Reſemblances* to his own Hand; We are juſtified in thinking it *His own* Letter: And, if it be *His own Letter*, it proves to a *Demonſtration*, that He ſometimes ſent *Letters* to his *Correſpondents*, (under *Fictitious Names*,) IN the *Hand-writing* of Mr. *Kelly*, alias *Johnſon*. And conſequently, the *Three Letters* in queſtion being proved to be written by Mr. *Kelly*, and plainly in the *Biſhop's* Name; *This* will be a *great Proof* that He was truly *Amanuenſis* to the *Biſhop* in *Theſe*, as He had been in *Others* before.

The *ſecond Difficulty* was, *What Account* could be given of the *Identity* of *Seals* upon *this Letter* taken in his *Houſe*, and *Another* acknowledg'd to be *his own*, ſeiz'd upon his *Servant* at the *Tower? What Account*, do You ask! The ſame *Anſwer* ſerv'd here too; and it was thought ſufficient to cry out, *Seals may be* forged, to a great Nicety of *Reſemblance*; and therefore, this *Seal* upon the *laſt Letter* actually *was* forged in order to make the *former Letter* appear from the *Seal* to be the *Biſhop's* own Writing.

Forgery, We ſee, *Miniſterial Forgery*, is the *Darling Topick*; and here applied, firſt to the *Letter* to *Dubois* found in the *Biſhop's* Houſe; and then to the *Seal* being the ſame with *That* upon a *Letter* of his own. *This*, We are now conſidering: Of which the leaſt I will ſay is, That He was very unfortunate in *this Evaſion*. I muſt not tire the *Reader* with every thing He may find in *other* Places; but muſt here refer Him to what Mr. *Reeve* and Mr. *Wearg* have judiciouſly obſerv'd upon this Subject. I will only here make *Two ſhort Obſervations*. The *Firſt* relates to the *Judgment* of the *Engravers* call'd to the *Bar*. *Thoſe* of that Profeſſion, who ſpake of making a *perfect Seal* from an imperfect broken *Impreſſion* of a *Letter*, as a Thing *poſſible*; yet Themſelves ſpake with ſome Diffidence of it, as a Thing *hardly poſſible*; very difficult; and ſometimes, as next to impoſſible to be done, ſo as to deceive a great and *skillful Artiſt*. One of the Others, who declared it *incredible* that the *perfect Seal* which had been uſed upon the *Letter* taken at the *Tower*, could be *form'd* from *ſo broken an Impreſſion*, as That upon the *Letter* to *Dubois*, was tried, by a very great *Artiſt*, brought by the adverſe Party, who made *ſix Impreſſions* with *differing Seals*, with all his Dexterity, in order to deceive Him: and, after a careful Examination, He anſwer'd ſo exactly, and ſo truly, that the whole *Houſe* was really in an *Amazement* at the Exactneſs of his Skill. As far therefore as the Judgment of *Artiſts* in their own *Art* is of Moment, it was infinitely *more probable*, (if not ſtrictly *certain*) that the latter *Seal* could not be a *Forgery*, than the *contrary*.

But my *other Obſervation* is, That the late *Biſhop* Himſelf utterly deſtroyed his own *Accuſation* of *Forgery*, which He would fix either upon the *Miniſtry*, or (which is, if poſſible, *more monſtrous*) upon the *Committee* of the *Houſe* of *Commons*, who had the *Letter* to *Dubois* in their *Cuſtody*, by his own *Argument* drawn from his *Accuſers* having varied in their *Interpretation* of this *Letter* to *Dubois*. For thus ſtands the Caſe. Finding this obſcure *Letter* open, with a *broken Seal*, in the *Biſhop's Cloſet*, the *Miniſters*, and the *Committee*, both thought at firſt that it was a *Letter* TO the *Biſhop*; as it was very natural for Them to do. In this Opinion They were, even till after the *Report* of the *H.* of *Commons* was *printed*. Being of this Opinion, had They been diſpoſed to a *Wicked Forgery*; They would without doubt have *forged* ſomething, to have ſupported their *Opinion* now *printed* concerning this *Letter*; which would have been leſs liable to *Objection*, than their varying from that *Opinion* about it. On the contrary, upon conſidering the Matter again, and comparing the *Seals*, They found, from the *Similitude* of the *Impreſſions*, as well as of a few *peculiar Letters*, that the

the *Two Letters* muſt both be *from* the ſame Perſon, who own'd the *ſame Seal*. It was the careful *Obſervation* of the *Seal*, which made Them alter their *firſt Conjecture* about the *Letter* to *Dubois*. This is a natural and a fair *Account*. But for an *Accuſed Man* to cry out, *No*. They forged this *Seal* from the *broken Impreſſion*, in order to ſupport an *Opinion*, which *Opinion* They had not in Them; nay, the contrary *Opinion* to which They had declared publickly; and which *Opinion* therefore, They could not be conceived to have, till the *Seal* upon the *Letter* from the *Tower* put it into their Minds, *prepoſſeſt* before by that other and *contrary* Opinion——This is *unnatural* Nonſenſe, and Self-contradiction. And therefore, This *Forgery* is an *impoſſible Suppoſition*; the mere *Invention* of *One* who had nothing elſe to ſay: And therefore, *He*, who had nothing elſe to clear Himſelf by, but ſuch an *Abſurdity* of a *Fiction*, muſt be the *Writer* of that *Letter* to *Dubois*: And conſequently, uſed to write to his *Correſpondents*, IN the *Hand* of Mr. *Kelly*, who went by the Name of *Johnſon*.

It being then certain, that *Kelly*, a *Nonjuror*, was a particular Acquaintance of the *Biſhop's*; that He had formerly *written* Letters from his Mouth; and that theſe *Three Letters* in queſtion were *his Hand-writing*; Nothing remains but to ſhew that the late *Biſhop* of *R.* is the Perſon to whom the fictitious Names of *Jones*, *Illington*, and the Number 1378, agree; and in whom *All* the *Circumſtances* in theſe *Letters* plainly centre; and conſequently, that He *dictated* them, or order'd the writing and ſending of them. The ſeveral *Particulars* which concur in the proving this, beyond any reaſonable Doubt, (and which the Reader will find at length in Mr. *Reeve's Reply*, p. 3, and 4.) may all be collected into this one *Argument*. "Whenever in theſe *Letters*, and throughout *Kelly's* Correſpondence, *Jones*, or *Illington*, is deſcribed, as *indiſpoſed*, or in *Pain*; the *Biſhop* of *R.* is proved to be *indiſpoſed*, and in *Pain*: When *Jones*, or *Illington*, is under a *Domeſtick Affliction*; the *Biſhop* of *R's Wife* is *dangerouſly ill*: That *Week*, in which Mrs. *Jones* died, in the *Correſpondence*; the *ſame* Week died the *Biſhop's Wife* at *Bromley*: Thoſe *ſeveral Days*, in which *Jones*, or *Illington*, is in the *Correſpondence* ſaid to be *out of Town*; on thoſe *ſame Days*, the *Biſhop* of *R.* is proved and acknowledg'd to be *out of Town*: When *Jones*, or *Illington*, is ſaid to be *in Town*; on thoſe very Days of the *Month* and *Week*, the *B.* of *R.* is proved to be *in Town*: When a little *Dog* was ſent over from abroad, for *Jones*, or *Illington*; his Name *Harlequin*, and his *Leg* broke in the Journey; at that ſame time, a *Dog* with that *Name*, and *Accident*, was ſent, and came to Mr. *Kelly*, which He Himſelf told his Friend Mrs. *Barnes*, (as *She* profeſt over and over again, upon *Oath*, was a Preſent to the *Biſhop* of *R*; and agreeably to this, the Receipt of the *Dog*, and his *Miſchance*, and *Illington's* Concern for it, are expreſs'd in other Parts of *Kelly's* Correſpondence: The *Third Letter* was writ in the ſame Hand, and ſent Abroad at the ſame time, under Cover to the ſame Perſon, with the other *Two*: It deſcribes the *Perſon* dictating it, to *dictate in Pain*, and to be under ſome other *melancholy Circumſtances*; it is ſuperſcribed *To Mr. Jackſon*, One of the Names of the *Pretender* in *Plunkett's Cypher*, and ſubſcribed by *Figures*, which denote a Perſon whoſe *Name* or *Title* begins with an *R*: and whom no One can doubt to be the ſame with *Jones* and *Illington*, as being under the like *Circumſtances*, at the ſame time.——The *Induction* therefore, from all theſe *Particulars*, is ſtrong.——The *Perſon* to whom not only *One*, but *Every One*, of theſe *Circumſtances* does, at the ſame time, exactly agree, muſt be the *Perſon* who *dictated* theſe *Letters*. Now the *Perſon* in whom they ALL thus agree, is the late *Biſhop* of *Rocheſter*. And therefore, the late *Biſhop* of *R. dictated* theſe *Letters* to Mr. *Kelly*; and conſequently, is *guilty* of this *Treaſonable Correſpondence*." This is the *Argument*, in its ſeveral Branches, againſt Him. And as to theſe ſurpriſing *Circumſtances*, which are the great Foundation of it, there is *One Thing* very remarkable, that *He* has Himſelf *unhappily* own'd that They do *All* ſo *wonderfully* concur in *Him*, as to furniſh *Him* with an *Argument*, that *His Adverſaries*, having found out theſe *Circumſtances* of *Himſelf*, his *Family*, and his *Journeys*, forged a *Correſpondence* which was, by Means of *theſe Circumſtances*, to be fixt upon *Him*. So conſcious was *He Himſelf* of the Strength of an *Argument* of his *Guilt*, brought from the Concurrence of ſo many odd and accidental Circumſtances. I enter not into the *Weakneſs* of this *Allegation*, at preſent. I only *now* bring it, as an *Acknowledgment*, from *his own* Mouth, that *He* is very plainly, and very ſingularly, pointed out by this *Coincidence* of perſonal *Circumſtances*; upon which is founded (as We ſhall hereafter ſee, in *Reply* to his own *Cavils*, and thoſe of his *Counſel*,) an *Unanſwerable Proof* of his *Guilt*.

BRITANNICUS.

PAPER VII.

I HAVE *ſtated* the *Charge* againſt the late *Biſhop* of *Rocheſter*, and laid before the *Reader* the great *Argument* upon which it is founded, in the ſeveral particular *Branches* of which it conſiſts. I will now conſider what *He Himſelf* has alledg'd, to invalidate or weaken that *Argument*. He begins his *Defence* againſt the *Charge*, p. 5. at Bottom, with the Affair of the *Three Letters* of *Apr.* 20. in this Manner. "That it could not be poſ-
"ſible that I *dictated* theſe *Letters*, has been
"made out to *your Lordſhips*, by ſuch a Con-
"currence of Evidence, ſo clear, full, and le-
"gal, as I perſwade my ſelf can have left no
"doubt remaining.——A plain *Matter of Fact*
"ſupported by ſuch Teſtimony, cannot be o-
"verthrown by little Gueſſes, and conſequen-
"tial Surmiſes." He goes on to applaud his own Happineſs in ſome peculiar Circumſtances, which made him capable of performing that

known Difficulty, of *proving* a *Negative*. " His " being diſabled in his Chamber; his being at- " tended before and after *that Time*, [viz. *Apr.* " 20.] by ſome of his Servants, and receiving " frequent Meſſages from others ——— Their " agreeing Teſtimony, that no Stranger came " near Him about that Time, and for ſome " time before and after ——— The Circumſtance " of the *Weſtminſter-Election* enabled his ſeveral " Servants to recollect the Time, and to fur- " niſh a Proof of his Innocence, and of the " *Impoſſibility* of the contrary." Theſe are very big Words —— It is no leſs, we ſee, than the *Impoſſibility* of the *Charge*, which He maintains; and his *Innocence* relies upon no weaker a Foundation, than *Matters* of *Fact*, ſupported by a ſurprizing *Concurrence* of *full*, *legal* Evidence: Which, if truly ſo, I own to be ſtronger than All *Conſequential Surmizes*, or a Thouſand *little Gueſſes*; tho' I muſt beg his Leave to obſerve, that the *Argument* of his *Guilt* is made up, neither of *Surmizes*, nor *Gueſſes*, but of a Number of *coincident Circumſtances*, which (morally ſpeaking) can centure but in *One Man*; and That *One Man*, in which they *All* centre, is *Himſelf*: which makes the *Proof* againſt Him of the *ſtrongeſt ſort*, and of quite a different Nature from *Surmizes* or *Gueſſes*.

But let us now examine what He here ſays; and We ſhall find that *ſuch* as was *his own State* of the *Charge*, *ſuch* is his *Anſwer* to it: the ſame *Partiality* running through *both*. It pretends not to reach to the *True Point*: nor indeed does it reach ſo far as it pretends. For I ſhall ſhew, 1. That even according to his own *falſe State* of the *Charge*, and his *partial* undertaking to *anſwer* it, the *Evidence* of his Servants did not prove the *Impoſſibility* of the *Guilt*. And, 2. That much leſs did Any thing, or Every thing that They ſaid, at all affect the *Real Charge* made againſt Him by his *Accuſers*. As to the *firſt*; (referring the *Reader* to the *Particulars* of his *Evidence*, as the *Counſel* for the *Bill* have collected and anſwer'd them,) I only make this *One* Remark. His principal *Servant*, and *All* his *Servants* which He brought, (even to a *Stable-Boy*, and his *Wife's Nurſe*,) did indeed pretend to ſwear that He was ſo ill, and ſo attended, at and about *that Day* [*Apr.* 20.] that neither Mr. *Kelly*, nor Any *One* elſe, could poſſibly come to Him without *their* knowing it. That *They* neither ſaw, nor heard of, ſuch a *Perſon* as Mr. *Kelly* or *Johnſon*, being with Him, at or about that Day of *April*. Therefore, He concludes, No ſuch Perſon was with Him. Now, I ſay, this will not ſo much as prove, what He pretends to, the *Impoſſibility* of *Kelly's* being with Him, even that very 20th of *April*, upon which the *Letters* are dated. For when that *principal Servant*, and ſome of the *Others*, were ask'd, Whether the *Apothecary*, or the *Miniſter* of the *Pariſh*, (who They ſaid uſed ſometimes to come to their *Lord*,) never came, without their *ſeeing Them*? Whether They thought, They might not have come to Him, without their Knowledge? They allowed the *Poſſibility* of it. They did not pretend to deny, but that *Thoſe two Perſons* might come to Him, even at *that Time* when He was ſo *ill*, and ſo *attended*, without *their Privity*. From whence it follows, that, notwithſtanding their Evidence, Mr. *Kelly* Himſelf might have been with *Him* on *Apr.* 20. without their Knowledge. For if thoſe Two Perſons, whoſe Affairs did not require ſuch Secrecy, might *ſo* come to the *Biſhop*; certainly *Another Perſon* might come *ſo*; and it might be contrived, in a Caſe which required more Secrecy, that He ſhould do ſo, notwithſtanding any thing They ſaid to the contrary. The late *Biſhop* therefore, might have been content to have put it upon the *Improbability* of the Thing; and not have boaſted of a *Demonſtration* of the *Impoſſibility* of a *Matter*, which his own *Evidence* own'd *in Effect* to be *poſſible*, after They had *ſworn* it was *impoſſible*. And as to *that Time*, in which the *Biſhop* was ſo ill at *Bromley*; it was proved, from the *Days* and *Hours* of Mr. *Kelly's* Abſence from his own Lodgings, that He might *poſſibly* be with the late *Biſhop* at *Bromley*; the Diſtance of which Place from *London* did not at all make it impracticable.

But this is not the *Truth* of the Caſe. The *Real Charge* was, that the late *Biſhop dictated* thoſe *Three Letters*: and therefore, in the *ſecond* Place, ſuppoſing it had been proved that the *Biſhop* and Mr. *K.* had not the *Poſſibility* of ſeeing one another, from the *Twelfth* of *April*, to the *Twenty-firſt*, [which was the utmoſt that could be contended for,] yet This would not have given Him the Happineſs of proving the *Negative* He ought to have proved; No, not ſo much as to a *Probability*. For the *Negative* He was to demonſtrate, was, that He did *not dictate* theſe Letters; that He had not ſeen Mr. *Kelly*, in any reaſonable Time, in which we could ſuppoſe *Letters* of this Date might have been *dictated*, in order to have been firſt put into *Cyphers*, and then ſent away. Now, as to this, It was *demonſtrated* that both the *Biſhop* and Mr. *Kelly* were *in Town* the *Eleventh* and *Twelfth* of *April*: and as to the *Company* which on thoſe Days came to the *Biſhop*, or the Hours on which he came to Town the *Firſt* of thoſe Days, and left it the *Laſt* of them; his *faithful Servants* could give no manner of Account. Here then is evidently and inconteſtibly (what was ſo much demanded) a *Day*, or *Two*, found and fixt, on which theſe *Two Perſons* might eaſily meet: And this anſwers very well to the Nature of theſe *Letters*, which required ſome Time to tranſcribe the Whole, and to put the proper Parts into *Cypher*; and are not ſuppoſed to be hurried away, when the Buſineſs of them did not require the greateſt haſte; nay, perhaps might be *delay'd* a little, in *Expectation* of ſome faithful Hand to carry them over; and only truſted to the *Poſt* when that *Expectation* fail'd. However it was, the *Time* agrees very well with the *Affair*. Here then is at once an

End

End put to this *boaſted Concurrence* of *Evidence*; which, at moſt, proved nothing *impoſſible* in their being *dictated* even upon *Apr.* 20. but which certainly proved *nothing at all* againſt the *Probability* of their being *dictated* ſome Days before *That*, and particularly *Apr.* 11, or 12. And the *Argument* drawn from that Number of *Circumſtances*, which agree *All* in the late *Biſhop* of *R.* remains in full Force, notwithſtanding the *Teſtimony* of his *Servants*. I never doubted, indeed, it would ſo appear in the End. And, I confeſs, I ſhould be in great Pain for *all Judgments* relating to the *Concerns* of *Humane Society*, if it could be otherwiſe. For if an *Argument* founded upon ſuch a Number of *Coincidencies*, which Themſelves are *Matters* of *Fact*, and not *Surmizes*, could be overturn'd by a *Concurrence* of other *Matters* of *Fact*, atteſted by *full legal Evidence*; I ſhould begin to deſpair of ever arriving at *Truth* in *Humane Affairs*; and think the *Buſineſs* of *Courts* of *Juſtice* muſt come at laſt to be determin'd by the *Caſt* of *Dice*, or the drawing of *Lots*. But the *Evidence* on the *Biſhop*'s Part thus duly conſider'd, will confirm and not invalidate, the *Proofs* upon which the *Lords* proceeded in their Judgment.

This is not all I have to ſay. I will go farther to a *Third* Obſervation, *viz.* That, ſuppoſing his *Servants* to have all united in a *Teſtimony* much more to his Purpoſe; yet their *Teſtimony* was attended with ſuch *Circumſtances* in their *Behaviour*, as made it *Unworthy* of any Credit. I need not here repeat that *Contradiction* in ſeveral of them, who upon *Oath* firſt declared that *No One could* come to *Him*, without their *Privity*; and afterwards acknowledg'd that *Two particular Perſons* might have been with *Him*, unknown to Them. But it will be of Importance to acquaint the *Reader* with the *particular Behaviour* of his *principal Servant*, upon whom He plainly moſt depended; which is not yet publick, and which moſt of all convinced me, how *prepared* He came, and how little Credit was to be given to him.

After he had taken an *Oath* to *ſpeak the Whole Truth*, and had been ſome time at the *Bar*, rather anſwering his *Maſter*'s Queſtions, than *Thoſe* of his *Judges*; a *Noble Lord* put a *Queſtion* to *Him* relating [not to the *Letter* directed to *Dubois*, as it is by miſtake printed in Mr. *Wearg*'s Excellent *Reply*, p. 21. but] to the *Letter* written by the *Biſhop* from the *Tower*, and taken upon that ſame Servant, as He was carrying it out. The *Queſtion*, one would have thought, very innocent, and very readily to be anſwered: for it was only, TO Whom was you order'd by your *Lord* to carry that *Letter?* which, it afterwards appear'd, was writ to his *Son-in-Law*, *Mr. Morrice*. The *Man* was pretty ready to ſpeak at firſt, whilſt He imagin'd, or had been taught, that any *Evaſion* or *Falſhood* might paſs. And therefore, his firſt *Anſwer* imported that He did not *know* To *Whom* the *Letter* was to be carried. This brought on a *Queſtion*, "*What!* "*not know?* Did your *Lord* give a you *Letter* to carry, without telling you to *whom* to carry it?" This was ſo abſurd, it required *another Evaſion*. And then his *Anſwer* was, "My *Lord* gave me "the *Letter* late at Night, with Orders to car- "ry it *early* the next Morning; and did not "*then* tell Me to *whom*; but bid me come to "*Him* in the *Morning*, before I went with it, "to *know* to *whom* to carry it." This abſurd incredible *Evaſion* is alone enough to be charged upon the *Servant* as *Perjury*; and to deſtroy all his *Evidence*. For can it be believ'd that *Any One Maſter* upon Earth ever gave a Servant a *Letter* over Night, to carry *early* the next *Morning*, and bad Him come to Him, in the *Morning*, for the *Direction?* If the *Maſter* choſe to be diſturbed in the *Morning* for a *Direction*; Would not He have kept the *Letter* Himſelf, and bid his *Man* come to Him *early* for the *Letter* itſelf, and not for the *Direction?* No One can believe this. Accordingly this *Evidence* was preſs'd with this Difficulty; and ask'd whether he did not gueſs, or imagine within Himſelf, to *whom* He was to carry it? and the like.

When theſe *Queſtions* thicken'd, and were urged upon Him, it is impoſſible to deſcribe the *Commotion* and *Shuffling* both of the *Servant*, who was upon his *Oath*, and of the *Counſel* for the *Biſhop*, in order to avoid giving an *Anſwer*. Sir C. *Phips* very *unwarily* apologiz'd for the *Servant*'s not anſwering it, from the *Right* every Witneſs had to take Care not to accuſe or hurt himſelf. But when he was anſwer'd by the *Lord Chancellour*, That this Excuſe implied in it an Acknowledgment of the *Letter*'s containing *treaſonable Matter*, or ſomething relating to what was *Treaſon*; and ſuppoſing it had, that the *Servant*, not being privy to the *Contents* of it, had nothing to fear from any *Anſwer* He could give; this *Excuſe* was dropt. And the *Noble Lord* ſtill perſiſting in his *Demand* of an *Anſwer* to his *Queſtion*; the *Servant* was in the utmoſt *Diſtreſs* what to do, or what to ſay. He *trembled* all over. His *Countenance* was often *pale*, and then again *red*; and in this *Agony* of *Soul*, in which He was in a *Conteſt* between his *Oath* to ſpeak *Truth*, and his Deſire to avoid what He came prepared to avoid, He frequently turn'd Himſelf towards his *Maſter*, plainly ſeeking ſome Intelligence from his *Countenance*, or his *Words*. I believe this was ſo remarkable, that All the *Audience* was in pain for the *poor Man*, and pitied One torn to pieces within by ſuch contrary Emotions. The *Biſhop* ſuffer'd Him to remain in the *Criſis* of this Miſery, in the Sight of ſo many and great *Spectators*, for *ſome Minutes*; and at laſt, ſeeing the Queſtion *muſt* unavoidably be anſwer'd, and that the *Servant* had not Strength to perſiſt in his *firſt Lie*, there was a *Scene*——which, I own, ſtir'd up *ſomething* within Me, more than *All* that had paſs'd—a *Scene* which, I believe, never before appear'd in any Trial, at any Bar—The *Priſoner*, the *Biſhop*, I ſay, ſtood up Himſelf, and with a ſeeming *Indignation* at the *Reſolution* to have an *Anſwer* to the *Queſtion*, and in a very high Manner, [I can't

can't relate it without Uneaſineſs,] He publickly, and in a loud Voice, without a *Bluſh*, or any Mark of *Shame* upon Him, *gave his Servant leave to ſpeak the Truth.* It could be call'd nothing better than *giving* Him leave; for the *Man* look'd *wiſhfully* upon *Him* ſeveral times for his *Relief* in ſuch Diſtreſs; and the *Maſter*, without the *Ceremony* of any other *Apology*, uſed ſome ſuch odd Words as *Theſe*, Since it muſt be ſo, ſince an *Anſwer* is inſiſted upon, let *Them* know the *Truth*. The only *Paraphraſe* I can put upon the *Action* and *Words* of the *Biſhop*, with regard to his *Man*, is this, "You are "ſworn to ſpeak the *Truth*, and the *whole Truth*. "But do not be in haſte to regard your *Oath*. "*Shuffle* and *evade* as long as You can, and for"bear to do what You have ſworn to do, till "I judge it to be *unavoidable*, and ſtand up, "and give the Sign." A *Behaviour* only befitting *One*, who had trampled under Foot his own *Oaths* long before this; and had taught *Himſelf*, what He was now teaching his *Servant*, to undervalue the moſt *ſacred Ties* of *Religion* and *Society!* Only with this Difference, that He had reconciled Himſelf to *Perjury*, in order to *dethrone* the *Prince*, He pretended to own; but was now reconciling his *Man* to the ſame Crime, in order to *help* the Maſter, He profeſt to ſerve. I confeſs, I much wonder'd that This *Behaviour* paſs'd off with no other ſort of Notice, but the *private Aſtoniſhment* of *Every Breaſt* which regarded it. I cannot, for my own Part, call it by a more favourable Name than that of an *Action*, in which a *Contempt* of what is *ſacred*, and a *Countenance* determin'd againſt *Shame*, diſcover'd themſelves, in Perfection; and in which the *Guilt* of *Him* who acted ſo, appear'd *equally* with them both. Nor could I think, I had ſaid enough of it, till I had left *this Mark* of *Infamy* upon it.

But if any thing could ſtill add to your *Wonder*, ſomething is yet behind to do it. For would you believe it? *After* this *Conduct*; *after* this *Servant* of his had thus *eluded* his *Oath*, and *ſhuffled* in his *Evidence*; and after He Himſelf had publickly ſhewn the *Lords*, before their *Faces*, the Influence He had over this *Evidence*, to keep his Mouth *ſhut*, or to *open* it, as He pleas'd; *After this*, the *Biſhop*, as if nothing of this ſort had paſs'd, recommended the *Teſtimony* of this very Man to the *Houſe*, as the *Teſtimony* of the moſt *Impartial* Perſon, who had laid his *Evidence* together in the *Tower*, upon the firſt reading of the *Report*, of his own Accord, without having the leaſt Direction from his *Maſter*, and before he let him ſo much as know that He was capable of ſerving him ſo much as He was. *Good Man!* how careful He is, leſt there ſhould be the *leaſt Appearance* of that conſulting together for his own Vindication, which He had a *Right* to, and no One could have blamed Him for! ſo careful, that becauſe *Others* could not ſo well ſee *this*, He takes the Pains to *obſerve* it Himſelf! And yet at the ſame time, how little ſollicitous not to *appear* to *direct* and *inſtruct*, where it was inexcuſable to do it! But who indeed, could hear with *Patience* ſuch a *Deceit* attempted to be put upon his *Judges*, after They Themſelves had ſeen this *unbiaſs'd Servant* at the *Bar*, and been Eye-and-Ear-Witneſſes, that even when He was upon *Oath*, He had a *Memory*, or *no Memory*, juſt as his *Lord* thought fit; a *Tongue*, or *no Tongue*, juſt as his *Maſter* gave the Word; and that He Himſelf gave Demonſtration that He came *inſtructed* how far to go, and where to ſtop; and ſtood at the *Bar*, *influenced*, not by his *Oath*, but by his *Lord*. This is no *hard Cenſure*, but unavoidably ariſing upon the Face of *his own* and *his Maſter's Behaviour*: Which at once ſhews the *Inſufficient Folly* of Low Cunning in the *One*, and the *Incredibility* of any *Teſtimony* from the *Other*. For to return to the *Point* now before Us,—*He*, who could permit Himſelf to anſwer a *Falſhood* to a *Queſtion*, after He had *ſworn* to ſpeak *nothing but the Truth*——*He*, who could refuſe at all to *anſwer* to a *Queſtion*, which could bring no criminal Charge againſt Himſelf, after He had *ſworn* to *ſpeak* the *whole Truth*——*He*, who ſtill perſiſted in his Silence, till his *Maſter* openly *gave Him leave* to *ſpeak*——This Man plainly ſhew'd that He came prepar'd, and inſtructed; that He had more *Regard* to his *Maſter*, than to that *God*, in whoſe Preſence He had *ſworn*:—And therefore, that *He* was not to be *credited* in what He ſaid in *Favour* of his *Maſter*; and that all the *Evidence* He had given upon *Other Points* is ſo affected by *This*, as to be utterly void of *Credit*, as far as this *principal Servant* and *principal* Evidence is concern'd. This was what I intended; to prove the *little Credit* due to the *Teſtimony* (ſo much magnified) of the *Biſhop's Servants*, and of his *Chief Servant* in particular. But as the *Man* was but *Partaker* in his *Maſter's* Crime, by being directed by Him in his *Evidence*; I could not ſhew what I deſign'd, relating to the *Servant*, without detecting the *Management*, the inexcuſable Management, of his *Maſter* alſo; and without expoſing what muſt raiſe the *Inward Reſentment* of *All* who know what *Piety*, *Honour*, *Innocence*, and *True Wiſdom*, mean.

BRITANNICUS.

PAPER VIII.

I HAVE already anſwer'd the late *Biſhop's Demonſtration* (as He calls it) of the *Impoſſibility* of his having *dictated* the *Three Letters* dated *Apr.* 20. by ſhewing plainly, that his *Servants* ſaid nothing which (being allowed to be true) could prove That pretended *Impoſſibility*: and that, ſuppoſing They had, They gave too full a *Demonſtration* of *Their own* Prevarication, to be credited in any *Teſtimony* to *His* Innocence.

After the Affair of *theſe Three Letters*, He comes, p. 6. *at Bottom*, to the *Letter to Dubois*, found in his own *Houſe*; but ſays little to it here, becauſe the *Council* for the *Bill* had not then

then open'd their *whole Argument* upon it. I have, in a *Paper* before, conſider'd this *Letter*, as one *Foundation* of the *main Argument* of his *Guilt*; and have, under that View, ſtated the Matter, as it was fully handled; and anſwer'd all his *Objections*; both *Thoſe* which appear in his *printed Speech*, and *Thoſe* which He urged, after the *Replies* of the *Counſel* for the *Bill*: and therefore, referring the *Reader* back to that *Paper*, ſhall ſay no more upon it now, but that it ſtill remains a *Letter*, by all the *Circumſtances* of it, fixt upon *Him*; and a *Letter*, which at leaſt ſhews that He uſed to write to his *Correſpondents* IN the *Hand* of Mr. *Kelly*: which both *He* and Mr. *K.* abſolutely denied.

We come now to a *Fifth Letter*, p. 7. *viz.* the *Letter* writ by the *Biſhop*, from the *Tower*, and taken upon his *Servant*; and acknowledg'd by *Himſelf* to be his own *Hand-writing*. I did not mention *this Letter* in the *State* of the *Main Argument* againſt Him, becauſe I thought it would come in moſt properly as a *Corroborating Circumſtance* of *That Guilt*, the Proof of which relies chiefly upon the *Proof* of his having *dictated* Thoſe *Three Letters*. For, as I would do *Him* all the Juſtice in the World, I muſt own that this *Letter* from the *Tower* is no manner of Proof (ſtrictly ſpeaking) of the particular *Guilt* laid to his Charge; it having no relation to thoſe *Three Letters*, which contain his *Treaſon*, or to *Any One* of them; or to Any of *thoſe Circumſtances*, which help to fix them upon Him. But, I muſt likewiſe obſerve, on the *other* Hand, That *this Letter* is an undeniable and a moſt convincing Evidence of his *Guilt* in *general*; of his being conſcious to *Himſelf* of his own *Treaſon*; and of his *Fear* that ſomething or other was diſcover'd to his Diſadvantage. Upon this Account, it is juſtly urged in this Cauſe: and may properly be alledged, as an Argument againſt Him, That, at *the ſame time*, that a *Number* of odd, accidental *Circumſtances* concur to prove thoſe *Three Treaſonable Letters* to be *dictated* by *Him*; there is a *Letter* ſeiz'd under his own Hand, which plainly betrays *Him* to be ſenſible of his own *Danger*, and inwardly conſcious of *that ſort* of *Guilt* which was laid to his Charge. Nor do I wonder that, when He comes to ſpeak upon this *Subject*, He is ſo very *remarkably* ſhort in what He ſays. This itſelf is an *additional Proof* of what I am urging. All that He allows Himſelf to ſay about it is, That it was writ to his *Son-in-Law*, which makes it not ſtand in need of farther Explication; that it was writ in *Anſwer* to a *Letter* of his, which was the Reaſon of not mentioning the *Names* of *Thoſe* (as not able to hurt Him) who were not mention'd in the *Letter* to which it anſwers; that Mr. *Reeve* had miſtaken the Senſe of *One Paſſage* in it; and then He leaves it to itſelf, without any more of his *Explanations*, or *Apologies*. No wonder, I ſay, He is afraid of *That Subject*, which, the more He had ſtir'd it, would the more have confounded Him. For it is not upon *One Sentence* of it, whether rightly or wrongly underſtood, that the *Argument* againſt the *Writer* was form'd; but upon the *Whole Frame* and *Tenor* of that *Letter*; which could no more come from an *Innocent Man*, than the groſſeſt *Treaſon* itſelf.

It is a very judicious and juſt *Obſervation*, which has been made upon *that* Paſſage of it, in which the *late Biſhop* tells his *Friends*, that neither *Layer*, *Sample*, nor *Neynoe*, could affect Him; *viz.* That an *Innocent Man* could not have writ thus, but muſt have expreſt Himſelf more largely, That let the Light which the Adminiſtration had into the *Plot* come from *Whomſoever* it would, and under whatſoever *Names*, it could not affect Him; becauſe He was totally Innocent; and therefore, not only that *Layer*, *Sample*, and *Neynoe*, could *not affect* Him: but that *All* the *Perſons* in the World, put together, could not affect *Him*, who was *clear* of *Every Degree* of *Guilt*. But becauſe an *Evaſion* may be found by *Wit* and *Cunning* for every Thing; and *He* may ſay, that He meant that, Even ſuppoſing it all a *Forgery*, if *thoſe Names* only were to be made uſe of againſt Him, He could the more eaſily ſhew the *Forgery*, becauſe they were Names of *Perſons* with whom He could prove that He never had the *leaſt* Acquaintance or Correſpondence: Whereas, if They had pitch'd upon *Others* that happen'd to be his *Acquaintance*, and ſhould produce *Theſe*, it would be ſomething harder to ward againſt the *Attack*, tho' it were all *Forgery*, *&c.* I ſay, Becauſe this weak *Inſufficient Evaſion* may poſſibly be made uſe of, to interpret *that Paſſage*; and becauſe ſome *Inadvertent Readers* may think ſuch *Evaſions* to be a Juſtification of that *Letter*; I ſhall therefore ſtate the *Argument* drawn from the *Whole Tenor* of it, before I go on to other Parts of his *Defence*. And in judging of it, let *Any One* of Common Senſe, put Himſelf in the *Circumſtances* of the *Priſoner* at that Time;——I deſire no more.

The *late Biſhop* was *then* in the *Tower* for *High-Treaſon*. He knew the *Crime* laid to his *Charge* by Thoſe in the *Adminiſtration*; tho' He did not know what *particular Proofs* of that *Charge* They had in their Poſſeſſion. He could not but conſider *Himſelf*, as a *Perſon*, in ſuch *Circumſtances*, ſtanding in need of the *Aſſiſtance* of his Friends. In *this Condition* He writes a *Letter* (not only, or principally, for the Uſe of the *Perſon* it was ſent to, but) to engage and to direct the hearty *Aſſiſtance* of all his Friends. How therefore, upon ſuch an Occaſion, would an *Innocent Man* have expreſs'd Himſelf? Can it be poſſibly ſuppoſed, that an *Innocent Man*, in *this* Condition, would not ſo much as *once*, throughout a *very long Letter*, have ſupported the *Spirits* of his *Friends*, by a ſolemn Aſſurance of his own *Intire Innocence*? Not once have declared his utter Guiltleſſneſs of *all Treaſon*? Not once have mention'd the Word *Innocence* on his own Part, or *Wicked Forgery* on the Part of his *Enemies*? Or, not once have beg'd their *Aſſiſtance* againſt a *Fictitious Charge*, and an *Invented Accuſation*?

Accuſation? But let us ſee how He chuſes to make his Application. Juſt the contrary Way. He ſpeaks in the *Stile* of a *Man*, againſt whom *ſomething* may be alledg'd; of a *Man*, who thinks no *Legal Evidence*, in *Weſtminſter-Hall*, or *Regular Impeachment*, can be produced; who is engaged in ſome *Cauſe*, for which his *Friends* have a *Zeal*; of *One*, againſt whom ſome particular Perſons could *not* furniſh Evidence; of *One*, who has nothing to fear but in ſome *leſs Ordinary* Way of Proceeding: Every Article of which implies in it *Guilt*; that there might be *ſome Evidence* againſt Him, tho' not what is required in *Weſtminſter-Hall*; that the *Teſtimony* of *Others* might hurt Him, tho' that of *Sample*, *Layer*, or *Neynoe*, could not. This is the more remarkable, compar'd with his *Behaviour* afterwards. In his *Speech* at the *Bar* of the *Houſe* of *Lords*, when all other *Defences* fail'd, He does at laſt ſpeak (tho' ſomething faintly) of his *Innocence*; as all *Criminals* do at *every Bar*. But in his *private Letter*, where the *Real Thoughts* of his Heart are to be laid open to his *Truſty Friends*, the Word *Innocence* is ſollicitouſly avoided. Follow Him to the *Bar* of the *Houſe*, and there you will find Him, when He ſaw all other *Replies* out of his Reach, delighting perpetually to have Recourſe to the *Darling Topick* of *Forgery*, and *Invention*. Every thing that pointed Him out, and ſet Him in ſo ſtrong a Light, that All the World ſaw *Him* plainly to be the Man, was *there* pronounced to be *Forgery*, and *Miniſterial Contrivance*. But look upon Him, in his *Letter*, before He knew the Strength of his *Accuſers*; ſee Him in thoſe Tranſcripts of his retir'd Inward Thoughts, which he was ſending his Friends for *their* Direction in his *Diſtreſs*; and there is not a Word of *Forgery* or *Invention*; no Accuſation of the *Miniſters* for any Deſign of his *Ruin*, without *Guilt* or *Evidence*; not ſo much as *One Inſinuation* of any *Contrived Plot* againſt Him. It is to little Purpoſe to enlarge farther. Let the greateſt Friend He has *Now* in the World, (and I am ſenſible, He has more *Now*, than ever He had through his whole Life,) put *Himſelf* in theſe *Circumſtances*, in a *Priſon*, under the *Charge* of *High-Treaſon*, writing a *long Letter* to his *Friends*, by *Stealth*; and let Him lay his Hand upon his Heart, and ſay, Whether it would have been *poſſible* for Him, in the Nature of the Thing, ſuppoſing Himſelf intirely *innocent*, to have written this *Letter* in ſuch Terms, as to avoid the leaſt *Inſinuation* of *his own* Guiltleſſneſs, or of the *Forgery* of his *Accuſers*; much more, to have dropt ſeveral Expreſſions, which plainly imply *ſome Guilt*, and *ſome ſort* of *Evidence*, ſomewhere or other, of that *Guilt?* I dare ſay, there is not a *Man*, of *All Thoſe*, who in *Either Houſe* voted *againſt* the *Bill* which affects the late *Biſhop*, who, conſidering this *Letter* in all its *Circumſtances*, could believe it could poſſibly come from an *Innocent Man*; at the ſame time that They might think fit, upon ſome other Accounts, to *vote* againſt that *Bill*. Thus much I thought proper here to ſay, about this *Letter*; in order to ſhew plainly that the *Perſon* who wrote It, in ſuch a Manner, in ſuch *Circumſtances*, was certainly, in *ſome* Inſtance or other, Guilty of *that Treaſon*, which He knew at that Time to be laid to his Charge.

After the late *Biſhop* has buried *this Letter* in as deep *Silence* as He could, He comes, p. 7. to ſpeak to Thoſe *Letters* from Abroad, which were receiv'd here, in *Anſwer* to thoſe of *April* 20. Which is indeed a *Circumſtance* too preſſing, and too keen, for Him to dwell upon. And therefore, He wiſely flies from it, as faſt as the Volubility of his *Wit* and *Tongue* can well carry Him. It is enough for *Him*, when He is pinch'd with ſuch a *Difficulty*, How came *ſuch Anſwers* from abroad, to the *Letters* from hence, if thoſe *Letters* were not really ſent by the late *Biſhop?*——*It is enough*, I ſay, for ſo *great* a Man, to cry out, as He does here, " *Any Man* " *that pleaſes, may write to Me, and take thoſe* " *Names upon Him. I did not receive them*—*The* " Letter *from* Motfield, *May* 11. *cannot be thought* " *writ with any other View, than that of being in-* " *tercepted, and of fixing upon Me that of* April 20. Then He goes on to talk of *Malicious Diſguiſes*, and the Injuſtice of making *Him anſwerable for Letters, which have been handed to and fro between Two unknown Correſpondents, on a Deſign to raiſe a Suſpicion of a Third Perſon, altogether a Stranger to what is writ.*——The *Letter* here mention'd is indeed a remarkable One. It was under *Cover* of *One* to *Another Perſon*. It is directed to Mr. *Illington*. It ſhews *Muſgrave* to be the ſame with *Motfield*; and, from a *Scotticiſm* in the *Stile*, to be writ by a *North-Briton*, as the late Lord *Mar* is. It ſhews *Illington* to be the Perſon who wrote to *Muſgrave*, Apr. 20. It ſhews *Him* to be a *Clergyman*, and *One* who had a Loſs in his *Family* a few Days after *Apr.* 20; and *One*, who was under a painful *Diſtemper* Himſelf; and *One*, who had promiſed *Motfield* to be reconcil'd, and to act again, with a certain *Third Perſon*, *&c.* Theſe are ſuch convincing *Circumſtances*, that the *Biſhop* could not forbear to acknowledge, They point *Him* out very plainly. He has therefore, no Refuge left but this, That the *Miniſters* contrived that this *Letter* ſhould be *writ*, as in *Anſwer* to *Another*, which They had forged before; and that this *Anſwer* ſhould be firſt ſent to *France*, and from *France* back to *England* by the *Common Poſt*, in order to be intercepted at our *Poſt-Office* here, and to fix the *Name* and *Letter* of *Illington*, upon an *Innocent harmleſs Prelate*. What a *Difficulty* muſt ſuch a *Refuge* as this bring upon the *Cauſe* of an *Accuſed Perſon?* For *He*, who dares to lay ſuch a *Crime* as This, to the *Charge* of *Miniſters*, muſt *firſt* ſuppoſe *All* Perſons concern'd ready to think *Them Wicked enough* to attempt it; and not only this, but He muſt convince Them likewiſe, that the *Miniſters* really thought ſuch Inexcuſable Attempts ſo much worth their while, as to hazard their own Safety, (I may ſay, *their own Lives*,) for ſuch a *Forgery*: and after *all*,

(which

(which is ſtill as difficult,) *He* that ventures at ſuch a *Scandal* as *This*, ought to be prepared with *full Evidence*, That *All other Circumſtances*, which concur in the Proof of his *Guilt*, were likewiſe *contrived*, *invented*, and *forged*, to coincide exactly with this *Letter*, in pointing out *Him* for the *Guilt* They had deviſed to fix upon Him. For He muſt not think, His *Affirmation* can be taken for *Evidence* of the higheſt *Improbability*, or of a *Moral Impoſſibility*. *Forgery* is, in its Nature, inconſiſtent with itſelf; and full of *Flaws*, whenever it runs into a Number of *Circumſtances*. And *Innocence* can find Ways to diſcover, and make them as evident as the Light. But when a *Criminal* is encompaſſed with a Multitude of *Glaring Circumſtances*, which ſhew *Him* to every Eye in the principal Point of Light; when a great *Number* of *Particulars* centre in *Him*, and *Him only*; for *Him* to avoid the Force of *All*, by ſaying of *Every One*, as He meets it,——A *Forgery*, A *Contrivance* of *Great Men!* ——The plain Meaning of *This* can be nothing, in other Words, but that He had *no other* Anſwer to make; and therefore, had Recourſe to this *Low*, *Poor*, *Improbable*, *Impoſſible Evaſion*. For He, who can believe the *Letter* now before Us *forged* and ſent *abroad*, to be intercepted afterwards *at home*, muſt believe ALL the *Other Circumſtances*, ſo nearly affecting the late *Biſhop*, forged alſo: and He, who can believe *This*, may believe, if He pleaſes, that *Falſhood* and *Truth* have the ſame Marks upon them; and that *Guilt* and *Innocence* are in *one* and the *ſame* defenceleſs miſerable Condition.

BRITANNICUS.

PAPER IX.

THE late *Biſhop* of *Rocheſter*, in the Proſecution of his *Direct Defence* of Himſelf, againſt the *Charge* of his *Accuſers*, after having alledg'd what I have already conſider'd about the *Treaſonable Correſpondence* by *Letters*, comes next to the remarkable *Circumſtance* of the *Dog*, which I have made one Support of the *Main Argument* againſt Him. It ſtands thus. A little *Dog* is ſaid, in One of the *Letters* to *Hatfield* from abroad, *to be ſent*, with Orders *to be deliver'd to Him* [Hatfield.] Accordingly, a *Dog* comes to *Kelly*, with an Accident of a *broken Leg*. *Kelly* gives it to Mrs. *Barnes*, to look after it, till it is *cured*. She is in hopes it is for *Herſelf*, according to a former Promiſe. But *He* tells Her, there is *Another* coming from *Paris*, which He deſigns for *Her*; but that This was ſent to *Him*, to deliver as a *Preſent* to the *B.* of *R.* This was deliberately repeated, and atteſted upon *Oath*, by Mrs. *Barnes*, whom neither Mr. *Kelly*, nor the *Biſhop*, ever pretended (nor I believe dared) to tax with *Corruption* or *Perjury*. The *Concluſion* from this is, that (as *Hatfield* in the *Correſpondence* was *Kelly*,) ſo *Jones* and *Illington*, to whom the *Dog* was ſent, were Names for the *Biſhop* of *Rocheſter*.

The late *Biſhop*'s *Anſwer* to this is, 1. An *Aſſertion* of a *Fact*, directly contrary to what appear'd at the *Bar*. As to "Mrs. *Barnes*, (ſays "He,) She varies; and ſometimes the *Dog* is "for *Me*, and ſometimes for *Her*." Whereas She conſtantly, without Variation, affirm'd, (and made an Apology for ſpeaking *Truth*, from her being then under the Awe of an *Oath*,) that *This Dog* in Queſtion, deliver'd to *Her* by Mr. *K.* with his *Leg* broke, was deliver'd to be cured, in order to be *then* preſented to the *Biſhop* of *R.* and that beſides This, there was *Another Dog* to come for *Herſelf*. It looks like too much *Guilt*, after this, for the *late Biſhop*, inſtead of anſwering to what ſhe ſaid, or charging *Her* with *Subornation* or *Perjury*, as He did *Others*; ſo groſly to miſrepreſent and falſify what ſhe ſwore.

2. Another *Anſwer* is the *Univerſal Remedy* againſt all *Attacks*; and that is *Forgery*. It is called an *Intercepted Dog*, by way of *Ridicule*; and ſaid to be deſign'd to fix the Names of *Jones* and *Illington* upon *Him*. How low does *Guilt* ſometimes ſtoop, and all only to make itſelf more manifeſt? And indeed, If *Guilt* did not blind the *Eyes*, how could a *Man* of ſuch *Penetration* lay Himſelf thus open, by ſuch Abſurdities? For when We come to enquire into the Matter, We ſhall find that the *Miniſters* neither *intercepted*, nor *ſeiz'd*, any ſuch *Dog*; nor perhaps thought of the Mention of a *Dog*, in the *Intercepted Letters*, any otherwiſe, than as of a *Cant-Expreſſion* to ſignify ſomething elſe; till Mrs. *Barnes*, being examin'd before the *Counſel*, gave an *Account* of a *Dog* in her Cuſtody, deſign'd for the *Biſhop* of *Rocheſter*. This therefore, join'd with the remarkable Circumſtance that He never dared to inſinuate a Word againſt Mrs. *Barnes*'s Credibility, is a *Demonſtration* that the *Machine* of the *Dog* was no Invention of Thoſe in the Adminiſtration, but a *Reality* diſcover'd to Them very naturally. But let Us take it in his own Way; that this very *Dog*, *which did come*, was the *Dog* mention'd afterwards by the *Surgeon*, *which never came*; and that it was for Mrs. *Barnes*; and that *She* merely by Chance, unthinkingly, and falſly, brought the *Biſhop*'s Name into this *Affair*: Where ſtill is the *Forgery*? Or how can this be call'd a *Contrivance* of an *Intercepted Dog*? Suppoſing the *Miniſters* deceiv'd by Mrs. *Barnes*'s ſolemn *Atteſtation*; yet, in *This* They muſt be free from all *Deſign'd Malice*, or *Wicked Invention* of their own. The *Whole* of their *Crime* muſt have been, their believing *Her* upon *Oath*, whom Mr. *Kelly* Himſelf contends, upon another Occaſion, to be a Perſon *worthy of all Credit*; and their farther tracing out the Perſon meant by *Jones* and *Illington* from this *Circumſtance* ſo atteſted.

But all the *Strength* of the *Defence*, I ſuppoſe, lies in this, That the *Miniſters*, knowing by this Means of a *Dog*, framed *ſubſequent Letters* ſo, as to ſpeak of that *Dog* in ſuch Terms, as to fix it upon *Jones* and *Illington*, under which *Names* they had before *forged* other *Letters* with Deſign to fix them upon the late *Biſhop*. *Incomparable*

comparable Sagacity! Were it not that *Facts* and *Dates*, (beſides *Probabilities* in the higheſt degree,) ſtand againſt it, and deſtroy it. Had theſe *Letters*, in which the *Dog* is mention'd, been written AFTER Mrs. *Barnes* had declar'd the *Dog* to be deſign'd for the *late Biſhop*, there would have been a *Poſſibility* of the *Truth* of what is here alledg'd; tho' only a bare natural *Poſſibility*, againſt *All Moral Evidence*. But it ſo happens that theſe *Letters*, relating to the *Dog*, were all writ, and intercepted, and in the *Hands* of the *Miniſtry*, BEFORE Mrs. *Barnes* had given *Teſtimony* about the *Dog*. It was on *May* 23. that *She* gave her *Teſtimony* of the *Dog*'s being deſign'd for the *Biſhop* of *R*. And the *laſt* of the *Letters*, relating to the *Dog*, bears Date *May* 7. So that She was examin'd about a *Dog*, becauſe a *Dog* was found mention'd in the *Correſpondence*; and not the *Dog* put into the *Correſpondence*, becauſe *She* had fixt it upon the *Biſhop*. Either therefore, He muſt ſay that Mrs. *Barnes* was his *Enemy*, and in the *Plot* againſt *Him*, and *before Inſtructed* by the *Miniſters* to lie and perjure Herſelf, in order to fix the Names of *Jones* and *Illington* (which ſhe knew nothing of) upon *Him*; or He muſt acknowledge that there can be *No Forgery* in this Caſe. But neither He nor Mr. *Kelly* appear'd the leaſt willing to repreſent Her under ſuch a *Character*, but the contrary. Therefore, There could be *No Forgery* in this Inſtance: and therefore, the *Circumſtance* of *this Dog* lies ſtill *ſtrongly* and *unanſwerably* againſt Him, and fixes the Names of *Jones* and *Illington* inſeparably to *Him*. And indeed, *He* Himſelf (ſo forgetful is *Invention* of its own Concerns) deſtroys his own Allegation. "The *Surgeon* (ſays He,) and Mr. *Kelly* only "knew any thing of this Matter, and They "can beſt clear it." If this be ſo, We have Mr. *Kelly*'s Teſtimony, who aſſured Mrs. *B.* that this *Dog* was for the *Biſhop*. And as to the *Surgeon*; his *Two Papers* contradict one another; but Neither of them *contradict* the *Teſtimony* of Mrs. *B.* becauſe They plainly relate to *Another Dog* deſign'd for *Her*. So that *Her Account* of the *Two Dogs* remains in full Force, a compleat Vindication from the *Charge* of *Miniſterial Forgery*.

3. He has *Another Argument* againſt the *Uſe* made of the *Letters* relating to *this Dog*, taken from That of *May* 7. in which it is ſaid, "*Mrs.* Illington *is in great Tribulation for poor* "Harlequin——*but* His *Obligations are never* "*the leſs*: Which (*ſays He*) being *Five Days* af- "ter the *Burial* of my Wife, cannot mean *Her*; "and being *but Five* Days after, can as little "mean *Me*." From whence He argues, that the *Writer* muſt be *One*, who knew little of his *Family-Affairs*, but blunder'd in the midſt of his *Bad Deſign*; and ſaid an unnatural Thing, which could not be true of his *Wife*, or of *Himſelf*. Of his *Wife*, without doubt it *could not*, becauſe She was dead at that Time; and therefore could be in no *Tribulation*. But of *Himſelf*, (firſt called Mrs. *Illington*, and then *He*,) it might be ſaid, by a *Third Perſon* writing in return to the Sender of the Preſent, notwithſtanding this *Argument*. And I am the rather inclined to think it true, becauſe of the *little Artifice* here made uſe of in the *Expreſſion*. For obſerve, His Words are, *But Five Days* after the BURIAL, (not, after the DEATH,) of my *Wife*. If He had made uſe of this *latter Word*, (which was ſo natural in this Caſe, that nothing but *ſome Deſign* could throw the other in his Way,) He muſt have ſaid, *Eleven Days*: and then it would not have appear'd ſo aſtoniſhing, that a *Perſon*, to whom a *Preſent* had been ſent from very conſiderable Hands abroad, ſhould *Eleven Days* after the *Death* of his *Wife*, expreſs to a particular Friend ſome *Concern* for an unfortunate Accident to ſuch a *Preſent*; and permit Him to make that Complement in his own Way. The *Death* of a *Friend* is the *Time*, from whence Men date the *Violence* of their *Grief*: and when, inſtead of *That*, ſo Ingenious a Man dates *his* from the Day of a *Wife's Burial*, and not of her *Death*, I ſuſpect it is to cover the *Six preceding* Days, which, when added to the *Other Five*, might not have ſounded ſo well in his *Argument*: And *then I can't help* thinking that *He*, who can deſcend to ſuch an *Inſtance* of *Art*, ſtands in need of it; and that *He*, who ſtands in need of it, has ſome *Guilt* to cover by it. The ſame *Correſpondence* repreſents Him, as very well diſpoſed for *Action*, and only waiting (not till the *Exceſs* of *Real Grief* ſhall have ſpent itſelf, but) till the *Days of Mourning are over*: and the ſame *Letter* ſpeaks of Mr. *Jones*, as *come to Town*: which was true of the *Biſhop* of *R*. What Room for the *Charge* of *Forgery*, in ſuch a Number of *Circumſtances* morally impoſſible to be *forged*, is every Man of *Common Senſe* judge.

And upon the Whole, If what the *late Biſhop* wittily obſerves be true, That "They are "not much in the wrong, who think *One In-* "*tercepted Dog* of as much Uſe, as *Ten Inter-* "*cepted Letters*;" He muſt be content with the *Argument* of his Guilt, drawn from a *Dog*, fixt upon *Him*, not by the *Invention* of his *Enemies*, but the expreſs *Teſtimony* of his *Friends*; and this ſtrengthen'd by a Manner of treating ſuch an *Allegation*, on his own Part, which ſhews he was conſcious of the *Impoſſibility* of giving a plain Anſwer to it. I have been the longer upon *this Circumſtance* of the *Dog*, becauſe it has not, I think, been ſo handled already, as to give a particular *Reply* to His *Cavils* againſt it.

The *next Page* (9.) contains *firſt* the *Old Inſinuation*, that it was an eaſy Matter for his *Enemies* to get an Account of his Motions to and from *Bromley*, and to make the *Correſpondence* anſwer to thoſe Accounts: Which is again an Acknowledgment, that if the *Treaſonable Correſpondence* be *not forged*, (which no One in his Senſes can believe it to be,) *He* is pointed out in it too plainly to be hid. After this, He comes to an *Acknowledgment* of his *Acquaintance* with

with *Kelly*; and then endeavours to prove, it can't be very particular, from the *Evidence* of (not *all*, but) *almoſt all* his Servants, who knew Him not either by *Face* or *Name*: Whereas the Nature of their Correſpondence together was ſuch, that it made it neceſſary for *Him* to be known, or ſeen, by as *Few* of the *Servants* as poſſible; and therefore, *This* Argument rather proves a *ſecret Intimacy*, than the contrary. But of this I have ſaid enough ſome Time ago. After *this*, follows a *Remark* about *Legal* and *Reaſonable Evidence*; which will come to be conſider'd in a more proper Place.

The whole *Tenth Page*, with Part of the *Eleventh*, is taken up in an *Inſinuation*, as if what *Neynoe* had reported, as ſaid to Him by *Kelly*, was the main Strength of the *Charge* againſt Him; in *Satire* upon *Hearſay Evidence*; and in leſſening *Neynoe*'s Character, and Teſtimony; and ſome *Severity* upon Thoſe who receiv'd it. It would be unpardonable to tire the *Reader* with *Repetition*. I have handled the Affair of *Neynoe*, and his *Evidence*, at full Length, in the *Obſervations* upon *Kelly*'s *Speech*: and thither I refer the *Reader*. I only ſay here, that it is a groſs unworthy Behaviour in the late *Biſhop*, to inſinuate as if the *Hearſay Evidence* of *Neynoe* were the *Strength* of the *Charge* againſt *Him*, when he felt the Weight of ſuch a *Number* of *Concurring Poſitive Circumſtances*, too ſtrong for Him to elude; and the Force of *that Argument*, which I laid before the *Reader* at the opening of this Part of the *Cauſe*; and that I have long ago ſtated all the *Circumſtances* of *Neynoe*, and the Degree of *Credibility* of his *Evidence*, and the *Conduct* of that *Great Miniſter*, here ſtruck at, with relation to *Neynoe*, ſo as to put this Part of the *Cauſe* far out of the *Reach* of theſe Low and Bitter Reflections:—which nothing can juſtify; and which *Guilt* alone could make neceſſary to *Him* who ſo freely made uſe of them.

From this, He wanders to the *Report* of the *Houſe* of *Commons*. But becauſe He fixes his *Obſervation* here, upon a *Letter* which made *Part* of the *Charge* againſt Him in *Both Houſes*; I ſhall ſtay to take Notice of it, tho' it is only deſign'd to invalidate a particular *Interpretation* of *One Paſſage* in it; which *Interpretation* was not at all inſiſted on, as a Part of that *Charge*. So that, whether the *Meaning* put upon the *Expreſſion* in the *Letter* be right or wrong; it will be of ſmall Importance to his Cauſe. The *Paſſage* is in the *Letter* of *Apr.* 20. to *Jackſon*, in which the *Writer* expreſſes Himſelf thus, "*Notwithſtanding this Opportunity is elapſed, I agree with you, Another may offer before the End of the Year*, tho' not perhaps every way ſo favourable.—" The *Interpretation* put upon it by the *Committee* is, that the *Opportunity elapſed* ſignifies the *Time* of the laſt *Elections* of *Parliament-Men*, &c. His *Argument* to prove this impoſſible to be the *Meaning* of it, is this, "That this *Paſſage* being ſuppoſed to be writ *Apr.* 20 and in Anſwer to a *Letter* from the *Pretender* at *Rome*, and that *Letter* founded upon *Intelligence* from *hence*; the Diſtance from *hence* to *Rome* is ſo great, that the previous *Intelligence* ſent to *Rome*, which occaſion'd the *Letter* to which this was an *Anſwer*, muſt have been ſent *Two Months* before *Apr.* 20. That *Two Months* before *Apr.* 20. the *Elections* were not ſo much as begun. And therefore, No Such *Expreſſion* could then be uſed by *One* at *Rome*, that *an Opportunity was elapſed*, which He muſt know was not *yet come*, when He heard laſt from *England*." But it is very eaſy to give an *Anſwer* to this *Imaginary Demonſtration*: and an *Anſwer* fully ſufficient to deſtroy the Force of it. For, the *Intelligence* given to the *Pretender* from hence, might very probably relate only to the *Reſolution* taken by his *Friends* here, *viz.* That it being propoſed to make the *firſt Attack* at the Time of the *Elections*, it was by *Many* not thought proper, and ſo the *Deſign* put off to *Another Opportunity*. Upon this, the *Pretender* may naturally anſwer, that tho' this Opportunity of the *Elections* ſhould be thought improper, and ſo *elapſe*; yet *Another* might afterwards offer itſelf for their Purpoſe, *before the End of the Summer*. Thus He might expreſs Himſelf, before He could know that the *Elections* were actually over. And his *Correſpondent*, anſwering Him *Apr.* 20. when *that Opportunity was actually over*, could not uſe the *ſame Expreſſion*; but would *naturally* ſpeak of it then, as a *Matter* actually over. *Notwithſtanding this Opportunity* IS ELAPSED, muſt be his Stile, *after* the *Elections* were over; and yet it might certainly be in *Anſwer* to *One*, who had only *ſpoke* in his *Letter* from *Rome*, upon the *Intelligence* He had receiv'd, *That the Deſign was not to be executed at the Time of the Elections*. Nay, This very *Expreſſion* in the *Letter* of *Apr.* 20. might be uſed, in *Anſwer* to *One*, who had received no *Intelligence* from hence; but only had writ his *Opinion* concerning the *ſeveral Opportunities* which might offer; and that if the *firſt* (viz. That of the *Elections*) ſhould not be judg'd proper, *Another* might ſoon offer itſelf. There is no manner of *Incongruity* in a *Perſon*'s anſwering thus, *Apr.* 20. and ſpeaking of the Opportunity of the *Elections* as over; and agreeing that *Another may offer*, &c. And therefore, not the leaſt Shadow of an Argument from hence, to ſhew that the *Interpretation* put upon that *Paſſage* was not natural and true. Theſe *Obſervations* are fully ſufficient, in *Reply* to *this Argument* of the *Biſhop*'s, upon which He ſeems much to rely.

We are now come to an *End* of what I call his *Direct Defence* of *Himſelf* from the *Charge* againſt *Him*. We ſhall next come to the *Indirect* Part of his *Defence*, taken from a Multitude of *Improbabilities* heap'd together: and ſhall ſoon finiſh what remains. BRITANNICUS.

PAPER X.

THE *Fifth* Part of the late *Biſhop* of *Rocheſter*'s *Defence*, is taken from a Number of *Improbabilities* heap'd together; and extends itſelf

thro' *Pages* 12, 13. And this *Part*, tho' it was not of Importance enough to be particularly conſider'd by the *Counſel* for the *Bill*, whoſe chief Buſineſs it was to urge the *Direct Proofs* againſt Him, and to *Reply* to his *Anſwers* to *Them*; yet deſerves ſome Notice: becauſe, on *One* Side, a good deal of Streſs ſeems to be laid upon it; and on the *Other*, I think it naturally tends very much to the Juſtification of Thoſe who condemn'd Him.

I will begin with obſerving, that when a Man of a *great Capacity* leaves the *Direct* Part of his *Defence*, in *Obſcurity* and *Confuſion*; and turns the *Bent* and Force of his *Abilities* to *Topicks*, which neither the *Charge* againſt Him, nor the *Manner* of *proſecuting* it, gave Him the leaſt Pretence to mention: it is a certain Sign that there was ſomething too hard for Him in the *One*; and that He took Refuge in the *Other*, becauſe it was a more copious *Subject* for his *Invention*, and a more unconfined Field for his *Self-Love* and his *Oratory* to diſplay themſelves in. I know the *Pretence* which He would willingly inſinuate, that, being attack'd only by what He ſometimes calls *Conjectures*, ſometimes *Surmizes*, and ſometimes *Probabilities*; He has a Right to ſet *Probabilities* on *One* Side, againſt *Probabilities* on the *Other*. And if this be a true and juſt *Repreſentation*; it is paſt all doubt that He has this *Right*, and does well in making uſe of it. But then, He muſt take Care that the *Probabilities* which He alledges *for* Himſelf, be of the ſame ſort with thoſe alledg'd *againſt* Him; and particularly, that They touch the *Facts* charg'd upon Him, as nearly as *Thoſe*, to which He oppoſes them: which We ſhall ſee not to be at all regarded by Him in this *Part* of his *Defence*.

But indeed, this Way of *repreſenting* the Caſe, is utterly *groundleſs*; not to ſay, *ſhameleſs*. For all who wiſh well to the Concerns of *Humane Society*, ought carefully to keep up a Diſtinction between the *Force* of a *Number* of *Concurring Circumſtances*; all centring in *One Point*, and all marking out *One* particular *Perſon*; and the *Weakneſs* of a *Parcel* of Looſe *Probabilities*, taken from *Circumſtances* that do not affect the *Point* in hand. If the *former* are to be call'd *Probabilities*, in Diſtinction to the *Evidences* of our *Senſes*, (in which *Themſelves* there is the bare Poſſibility of *Error*,) yet They are always to be look'd upon, as thoſe *High Probabilities*, which create that *Moral Certainty*, or *Moral Evidence*, which is the Guide of *Courts* of *Juſtice*; and with which, if it be once taken away as Inſufficient, all Hope of *Juſtice* in the *Affairs* of *Humane Society* muſt be taken away at the ſame time. They are indeed the only Foundation of that *Moral Certainty*, upon which the greateſt Part of *Humane Affairs*, even of the *Higheſt Nature*, are, and muſt ever be, tranſacted. And *He*, who oppoſes to *Theſe* a *Catalogue* of *Looſe Probabilities*, all *general*, and all void of the leaſt particular Relation to the *Point* in hand; not only trifles in *his own* Cauſe, but does what in *Him* lies to deſtroy the *Cauſe* of *Humane Juſtice*, whilſt He attempts to invalidate the *great Foundations* of it, by comparing *Them* with ſomething which bears no ſort of Likeneſs or Proportion to them.

I will not inſtance here only in the *Caſe* of *Treaſon*, in which it is abſolutely impoſſible to preſerve any *State*, if a *Number* of *Circumſtances* which come cloſe to a *Perſon* and a *Fact*, ſhall ever come to be call'd *Surmizes*, and to be outweigh'd by a *Number* of *Circumſtances* of quite another ſort, which have no ſuch *Reſpect* to the Charge in queſtion. But I will add the Caſe of *Wilful Murther*; which could very ſeldom (perhaps *never*) be puniſh'd, if that *Moral Evidence* of *Concurrent Circumſtances*, pointing out the *Murther*, and the *Murtherer*, could be overballanced by *Any Circumſtances* which do not nearly affect the ſame particular Fact. For, ſuppoſing the Caſe of a *Wilful Murther*, carried on as darkly as *Conſpiracies* generally are; and that, by ſome Diſcoveries it were plain that this *Murther* was committed by *One* who went by the Name of *Jones*—who was *in Town* ſuch and ſuch *particular Days*, and *out of Town* on *other particular Days* —— who was laid up with a painful Diſtemper at *ſuch* a Time—— whoſe Wife was *dangerouſly ſick* on ſuch a Day, and died in ſuch a *Week*——who had a *Dog* preſented to Him, which *Dog* was named *Harlequin*, and had his *Leg* broke in his *Journey*; or the like: And ſuppoſing, a *Perſon* was apprehended, and brought upon his Trial, in whom *All* theſe *Marks* united; and from whom a private *Letter* had been intercepted, with ſome Signs of a *Conſciouſneſs* of *Guilt* in it—Does Any One imagine, that his *Judge* would think it tolerable for *Him* to treat *Theſe* Particulars as *Surmizes*; or permit Him to ſet againſt *Theſe*, a Chain of *General Improbabilities*; and to plead in this Strain,—" *My Lord*, Is it *probable* that I ſhould be the *Man?* I had a good Education—I have a Family to look after——I was brought up to an honeſt Trade——I have been known *Thirty Years ago* to ſpeak with Abhorrence of ſuch Vices——I muſt have been *infatuated*, to have been *guilty* of ſuch a *Crime*, to the Ruin of Myſelf and my Family; and yet I never paſs'd for a *Madman* —— If a *Criminal* ſhould pretend to urge and inſiſt upon ſuch *Vain Empty* Allegations, He would, I doubt not, be told, That *Theſe* do not touch the *Point* in hand; That his Buſineſs is to bring Proofs that thoſe *Circumſtances* do *not* centre in *Him*; and that *No Circumſtances* can be of any Force, but ſuch as directly ward off the *preſent Charge*, by deſtroying thoſe other *Circumſtances* which are thoſe *Proofs* of it, upon which the *Court* muſt frame their *Judgment*. I have thought fit to ſay thus much; that ſuch *Moral Evidence* as is ſufficient to remove all Doubt, which is the *Foundation* of almoſt all *Social Actions* in Humane Life, and the *Guard* of *Humane Society*, may not be ill-ſpoken of, and put into the *Rank* of *General Circumſtances*, which ſatisfy the Mind in nothing

particular,

particulars, and can be the Ground of no *Judgment* against any *special Charge*. And having now premiſed this, I ſhall take a *View* of the particular *Caſe* before Us, and of the particular *Probabilities*, urged by the late *Biſhop* in his own *Defence*.

Only before I do it, I ſhall beg the *Reader* to ſtop a little, and imagine within Himſelf what it is he would naturally expect in this Place. Here is a *Clergyman*, a *Biſhop*, before his *Judges*, under the Accuſation of particular *Acts* of *Treaſon*. He undertakes to ſhew the higheſt *Improbability* of his being guilty of what is laid to his *Charge*. Would not One preſently expect *Him*, in ſuch Circumſtances, urging his *Judges* with ſuch an *Argument* as this——" Is it at all *credible*; Is it at all " *probable*, that *I*, who am, and have long been, " a *Preacher* of *Simplicity* and *Truth* to *Others*; " that *I*, who have taught *Others* the *Sacredneſs* " of an *Oath*, ſhould in Myſelf ſhew Them " the Example of an Impious Breach of it." This would have ſounded well, if He could with Confidence have appeal'd to his *Practice*; and have gone on thus——" My Lords, I have " taken a *ſolemn Oath* to be faithful to K. " *George*. I have abjur'd the *Pretender*. My " *Conduct* has been always full of a *Zeal* for " the *Former*, and againſt the *Latter*. I have " ever ſhewn by my Behaviour, as well in the " *Critical Time* of the *Late Rebellion*, as upon all " other Occaſions, that my *Heart* went along " with my *Lips*; and that I have acted *Myſelf*, " and animated *Others* to act, with an inflexible " Duty to the *King* I have ſworn to, and in a " warm Oppoſition to *Him* I have *abjured*. " The *Converſation* I have moſt entertain'd, the " *Company* I have kept, are Proofs of the ſame " *Fidelity* to K. *George*. And is it *probable*, or " *credible*, that after *Years* ſpent in his faithful " Services, I ſhould at laſt, on a ſudden, " turn an *Enemy* to *Him*, and an *Enemy* to *God* " Himſelf, by trampling under foot all the " moſt ſacred *Ties* of *Duty* I am under?" I ſay, Could this have been ſaid *truly*, and with the *concurrent Teſtimony* of Thoſe who convers'd with *Him*, that *ſuch* was his *Behaviour*; it would have furniſh'd out *One Probability*, infinitely outweighing *All* that He has taken the Pains to amaſs together. But when this *Argument*, taken from his *Profeſſion*, and from the *Obligation* of an *Oath*, is ſo far from being made the Support of the *Improbability* of his *Guilt*, that, throughout the *Whole Speech*, He did not think fit *once* to touch upon *that Subject*; or to ſay *One Word* of the *Senſe* He had, or ought to have upon his Mind, of the *ſacred Obligation* of his *Oath*; and when He had not indeed the *Courage* to appeal to *Any* publick *Marks* of *Zeal* for the *preſent Proteſtant Eſtabliſhment*, for many Years laſt paſt: Methinks, He had much better have let alone his *Apology* from *Improbabilities*; becauſe, *Silence* upon ſome *Topicks*, which lay ſo plainly in his Way, is a much ſtronger Argument of his *Guilt*, than all other *far-fetch'd* Conſiderations can be, of his *Innocence*.

But ſince *theſe Particulars*, which every *Reader* would naturally expect, are all carefully omitted, or forgot: Let Us ſee *what* thoſe are from which He thought it a Part of his *Dexterity* to fetch his Defence, as to *Improbability*. And I ſhall now put Them, as they offer Themſelves, into the *Form* of *Argument*; that their *Force*, or *Weakneſs*, may be the eaſier ſeen. This Part of the *Defence*, therefore, muſt run thus, " My Lords, The late *Duke* of *Ormond* was the *Perſon*, amongſt the *Traitors*, I had the *greateſt Reſpect* for; and of the *Two Perſons* to whom I am charged to write, *One* I never ſaw, and the *Other* I am ſcarce acquainted with; beſides that He was thought to have left the *Pretender*: and therefore, It is *Improbable* that, if I were engaged in a *Treaſonable* Deſign, I ſhould not correſpond with the *Firſt*; but with the *Two* laſt; and *this*, by *Letters* ſent by the *Common Poſt*, without regard to *Caution*, or *Secrecy*." But here, I muſt obſerve as I paſs; that he ſhews much *leſs* regard to *Caution*, in mentioning the late D. of *Ormond*'s Name, becauſe there was Proof of his having receiv'd from the *Dutcheſs* of *Ormond* a *Letter*, which plainly enough ſignify'd ſome *Correſpondence* with *Her Lord* abroad; as well as his having convers'd with *Another* Perſon, juſt before his going for *Spain*. Beſides, The *Two* with whom He was accuſed of corresponding, were well known to be firm in the *Pretender*'s Intereſt, by all Friends: and it is of abſolute Neceſſity for *Perſons* engaged in ſuch a *Correſpondence*, to carry it on with *Thoſe* who are in the *Situation* of forwarding the *Deſign* moſt, and who can moſt eaſily and readily be correſponded with. And as for *Caution*; it is manifeſt, He chiefly depended upon the Secrecy of *Cyphers* and *Cant-Words*; and thought Himſelf ſafe, in the conſtant Care He took, of not coming within the Reach of ſuch *Evidence*, as would convict Him in *Weſtminſter-Hall*. The *Cunningeſt Men* do ſometimes the moſt uncautious Things: and the only *Point* here is, about *Fact*, *Whether He did not dictate thoſe Treaſonable Letters*, to the *Pretender*, and to *Two* of his moſt faithful Servants; and whether the *Proofs* of that *Fact* do not infinitely outweigh a faint Shadow of a *Probability*, which is indeed *no Probability* at all.

But He proceeds thus, " Is it probable that when attending the ſick Bed of my Wife, and expecting her Death not daily but hourly, I ſhould enter into Negotiations of this kind?"—It is not *tolerable* to enter into Any Man's Private, or *Domeſtick Affairs*, but where He Himſelf officiouſly, unneceſſarily, and in prejudice to the *Cauſe* of the *Publick*, leads the Way; and makes it excuſable, by making it neceſſary. Thoſe who knew the *late Biſhop*, and had obſerv'd his *Conduct* in the *Relation* in which He here ſpeaks of Himſelf, are the *Beſt Judges*, whether Any Argument of this ſort could, in *his* Caſe, have any the leaſt Degree of Force in it. I can only ſpeak to what appear'd at the *Bar*; and *there*, I muſt do Him the *Juſtice* to ſay,

ſay, that He did not at all *affect* the Outſide of any ſort of *Concern*, or *Paſſion*, at the repeated Remembrance and Diſcourſe of her *Sickneſs* or *Death*. So that, I own, I concluded that *He*, who could *hear* and *ſpeak* of it ſo often, in the Courſe of the *Trial*, ſo ſedately and compoſedly, only as a Matter of *Fact*, or a *Note* of *Chronology*; or as He might have done of *Harlequin's broken Leg*; could never have receiv'd any *Stop* from the *Thing itſelf* in *Any* of his great Deſigns, but only what *Common Decency* required, for his own Sake. And I will preſume to ſay, that This ſort of *Apology* ought not ſo much as to have been mention'd upon any Occaſion by Any Man, but *One* inwardly conſcious of a *Real Perſonal Fondneſs*, paſſionate enough to have hinder'd all the Functions of the *Active Life*; nor by *One*, who knew as well as Thoſe who heard Him, that *All* great *Undertakings* go forward, and all the Affairs of this World are carried on, notwithſtanding the greateſt *Domeſtick Afflictions*. But how could He think that the commoneſt Reader would help obſerving, from the Nature of the Thing, that theſe *Negotiations* muſt have been enter'd into, long *before* this *Affliction* came ſo *near* Him; and that, in this very Correſpondence, He was to be in a State of *Inactivity*, during the *Days of Mourning*; and *after* them, to return to *Buſineſs* again; and that all Men of *Enterprizing Geniuses* would take it very ill, to be thought ſo *abject*, as to ſink and ceaſe from their Duty, upon Events ſo common as the *Mortality* of *Friends* and *Relations?* And indeed, I cannot help judging that *No One*, but a *Guilty Man*, who ſtood in need of *every Twig* his Hands could lay hold on, could have mention'd *this Topick*, in this Manner, amongſt his *Improbabilities*.

As for all the *Circumſtances* that follow, They may be put together into *One Argument*, and truſted very ſafely.—"I was (*ſays He*,) carrying on *Publick Buildings* at *Bromley* and *Weſtminſter*—I was ſearching *old Books* about the *Foundation* of *Weſtminſter*——I was correſponding with *Learned Men*, and going to ſettle the *Time* of the writing the *four Goſpels*—I was always at home, and only at Dinner ſtir'd out of my Chamber,—and receiv'd all who came to me, and ſo had no Opportunity of being thus engaged—Neither my *Servants*, nor Acquaintance, knew any thing of my being in this Conſpiracy—nor particularly Mr. *Pope*, who was my moſt conſtant and intimate Companion, and who has teſtified thus much for Me.——I have not been bred to *Arms*, but to *Learning*;——[and therefore, could not carry on a *Correſpondence* by *Letters*.]——I have been in *Parliament*, but never was in a *Counſel* of *War*.—I have perhaps been thought *too active* in my own Buſineſs, but never meddled *remarkably* out of my own Sphere.—I had no Temptation to *This* which is laid to my Charge.—For, I am far from *Ambition*; and always was reſolved againſt *riſing higher*——I am ſo far from *Covetous*, that I *deſpiſe Riches* too much—I have laid out 800 *l.* upon my Houſes, and took not a Farthing of my *Predeceſſor's* Widow for *Dilapidations*—and have ſpent the reſt as becomes a *Biſhop*.——I cannot be ſuppoſed to have an Affection for the *Church* of *Rome*. I have always oppos'd *Popery*. I began my Studies (*about Forty Years ago*) with *Chillingworth's* Immortal Book—I wrote a *Defence* of *Luther*, *thirty* Years ago;—[and therefore, cannot *Now* be in a *Conſpiracy* in Favour of a *Popiſh Pretender*.]—I was always a Friend to *Liberty*; an Advocate for *Inferiors* againſt their *Superiors*; [and in this Character, I oppoſed Thoſe in K. *William's* Adminiſtration, and in Q. *Anne's*, at the Beginning of her Reign;]——and therefore, cannot be ſuppoſed Now to be an Enemy to K. *George*.

I hope the *Reader* will not think I have framed and invented this *String* of *Improbabilities*. He may ſee it in *Print*. And I aſſure Him, I have only fill'd it up with a *few Particulars*, which were ſpoken by the *Biſhop*, but are omitted in the *printed Defence*; and with a *Word* or *Two*, which He did not indeed ſpeak, but which are preſently ſeen to be abſolutely neceſſary to make the *Form* of that *Concluſion* which alone could be of any Uſe to Him.—To place *theſe Particulars* before the *Readers* Eyes, with the Mention of that *Concluſion* He deſired to be drawn from them, is enough of itſelf to expoſe the *Weakneſs* of them, and to make any more Words unneceſſary upon this Part of the *Subject*.

Had the Caſe been ſo, that His *Accuſers* had argued againſt Him from ſuch *Topicks* as theſe—You are a *Proud*, a *Covetous*, an *Ambitious* Man; a great Lover of the *Grandeur* of the *Church* of *Rome*; and conſequently, of a *Popiſh Pretender*; and the like: and therefore, You was in this particular *Plot*, and acted the Part of a *Chief Correſpondent* in it:—All theſe *Inſtances* had been proper to be *urged*, if they could have been proved. But when on *One Side*, They inſiſt upon quite different *Matters* of *Fact*, which point out a *particular Treaſon*; and on the *Other*, He anſwers, That this can't be believ'd, *becauſe* He is free from *All* theſe *Vices* which could lead Him to it, being *All Humility*, *and Quietneſs*, *and Contentedneſs*, *and Charity*; What is This? or what can it be, but a *Mark* of *Guilt*, and an *Attempt* after *Popularity?* For, as what I have juſt now mention'd, could be the *only Good Reaſon*, to juſtify his running out into any one of theſe *perſonal Particulars*: So, the *only True Reaſon*, which, in the Circumſtances of his preſent Caſe, could move Him to ſuch a Conduct, muſt have been the *Inward Senſe* that He wanted more ſubſtantial Replies; and the *flattering Hope*, that *This Enumeration* would be more *moving* to *Common Minds*, than any thing He could offer of another ſort; and the *pleaſing Imagination*, that his *Adverſaries* had furniſh'd Him with an *Opportunity* of giving the World a *Picture* of *Himſelf*, in ſuch Colours as He himſelf could beſt paint; and of publiſhing

far,

far and near, with the Trumpet of his own Voice, *Those Virtues*, which *None* perhaps had ever before discover'd; and of which, otherwise, the *World* had remain'd perfectly ignorant. And now They are all *published*, I can safely say this of them, "That all united, are no more "to the *probable Proof* of his *Innocence* of the "particular *Guilt* laid to his Charge, than if "he had argued, that He could not be supposed to be in the *Conspiracy*, because He was "of a *fresh* Colour, or subject to the *Gout*—or "because He was a *Lover* of *Wit*, an *Admirer* "of the *Classical Authors*; was very conversant "in the Beauties of the Ancient Poets; and "spent many Hours and Days of his Life in "the Company of the *Best Modern Poet* of our "*Nation*, that this *Age* has produced.

BRITANNICUS.

PAPER XI.

AFTER *that* Part of the late *Bishop* of *Rochester*'s Defence, which consists of a *Catalogue* of supposed *Improbabilities*; the *Next* which offers itself relates to the *Nature* and *Circumstances* of the *Punishment* inflicted upon Him, by the *Bill*. And his *Complaints* on *this* Head are divided into such as concern his Case, consider'd in the Rank of *Common Men*, and *Common Subjects*; and such as affect *Him*, consider'd in the *Character* of a *Clergyman*. As to the *former*, it would be great Mispence of Time, to go over all the Particulars here insisted on; and to follow a *Criminal*, supposed to be found *Guilty* of a very *High Crime*, arguing against the Reasonableness of a *Punishment* greatly inferior to the *Crime* itself. For *this Part* of his Argument is not taken from his *Innocence*: if it were, it would, and must, run thus. "My Lords, I am innocent, and must appear so; and therefore, I trust, you will lay *No Punishment* at all upon Me." This had been the just and undeniable *Inference*: because where there has been *No Guilt*, there can justly be *No Punishment*. But the *Argument* here made use of is this. "Supposing *Your Lordships* to think and find "Me *Guilty* of the *Crime* alledged against Me; "yet sure You cannot be so hard as to *banish* "Me from my native Country, and deprive Me "of the Conversation of my Friends, and take "from Me the Support of my *Temporal Revenues*." The *Crime* here is no less than that of *High Treason*, the greatest Crime known in our *Law*. The *Punishment* in the *Bill*, is not the *Usual Punishment* of an *Ignominious Death*; but the much *lesser Punishment* of *Exile*. And the *Criminal* begs of his *Judges* to think *This Punishment* vastly *Greater* than his Crime deserves; and to change it into *Something lighter*; that is, either *Nothing* at all, or *Nothing* that could be call'd a *Punishment*. "Find me *Guilty*, "if you think fit: but let me enjoy the Com"forts of this World amongst You still, as I "have hitherto done." This is the *Voice* of this *Part* of his *Speech*. To mention it, is enough to shew the *Absurdity* of it; and therefore, I shall only add two *Observations*. *One* is, that some of these Circumstances which He mentions, as the *greatest Hardships* of his Case, were not absolutely fixt by the *Bill*; but left in the *Breast* of the *Crown* to alleviate; and have been since alleviated by a *Royal Permission*, that such of his *Relations* and *Servants*, as He desired, might accompany and attend Him. The *Other* Remark is, that upon the *Whole*, there never was a *Punishment* for so high a *Crime*, temper'd with more *Mildness*; and that it would be much harder to answer the Complaint of his *Injured Country*, speaking to his *Judges*, and demanding, "Why They did not "punish *such Treason*, as *such Treason* deserv'd "to be punish'd;" than to reply to His Unreasonable Complaint, "Why do You punish "Me with *Exile*, when You might inflict "*Death* it self?" Or, in other Words, "Why "do You inflict a *Lesser Punishment*, when "You have a *Right* to inflict a much *Greater*?"

The *Other Branch* of the *Complaint* against the *Punishment*, was taken from the *Spiritual Character* of the *Criminal*. And this the *late Bishop* usher'd in, with some sort of Solemnity. "What is most particular in my Case, (*says* "*He*,) I will repeat distinctly, that my *Reverend* "*Brethren* may hear it. I am render'd incapa"ble of using or exercising any Office, Func"tion, Authority, or Power Ecclesiastical, "not only in his Majesty's Dominions, but "any where else." Then follows an Exclamation, "Very hard! that such spiritual "Power as is not derived from Men, but "from God Himself, should be taken from "Me!" His *Reverend Brethen* heard this; but were too wise to be imposed upon, by the Sound of Words, and the Pretence of *Privileges* inconsistent with the Safety of *Humane Society*. They very well knew that the *Right* of the *State* to defend itself against *Civil Criminals*, or *Traytors*, was the same; of whatever *Profession* the *Criminal* might be. They knew that the *Supreme Power* had a *Right*, in such Cases, to inflict *Close Imprisonment*, or *Death* itself; in both which Cases all *Exercise* of *Ecclesiastical Powers* was effectually and certainly taken away. They had too much Sense to think that a *British Act* of *Parliament* could extend its Influence beyond the Limits of *British Authority*; or operate out of its own *Sphere*, upon the *Privileges* or *Liberties* enjoy'd under the Protection of *Foreign States*: And They saw, from the very Words of the *Act* itself, that All it pretended to, was to restrain, as far as the *Supreme Authority* of *Britain* could reach, that *External EXERCISE* of *Ecclesiastical* or *Spiritual Functions*, which might be of Prejudice to the *Civil Constitution* of these Kingdoms; without concerning itself with *Inherent Powers*, or *Indelible Characters*. They knew that *All State-Criminals*, as such, are upon an *Equal Foot*: and that, as it is the *Will* of *God* that *Traitors* should be punish'd, and *States* preserv'd from all future bad Effects from their

their *Treaſon*: ſo, it cannot be ſaid to take away any *Power* which could ever come from GOD; or ſo much as to be diſpleaſing to Him, to hinder effectually, as far as poſſible, *that Exerciſe* of any *Spiritual Functions*, which may ſtill be the great Nouriſhment and Inſtrument of the ſame Dangerous Treaſon, againſt which All Societies have a Right to guard Themſelves. They could not therefore, be weakly caught by theſe *enticing Words of Man's Cunning*; whilſt They conſider'd that the ſame Way of Argument would lay open all the *Fences* of the *preſent Eſtabliſhment*, to *Papiſts* and *Nonjurors*; and muſt in the End root up every *Foundation* of the preſent *Government*. For if it be enough to talk of *Powers* coming from God — not to be *reſtrained* in their *Exerciſe* by *humane Laws*, without a Crime — What ſhall we think of thoſe *Laws*, which reſtrain the *Exerciſe* of *Spiritual Functions* in any Congregation, to ſuch Perſons only as pray for the preſent *Royal Family*? and the like. *Popiſh* and *Nonjuring Prieſts* have the ſame *Allegation* to make, of *Spiritual Powers* from *God*. And if a *State* cannot reſtrain and limit and hinder the *Exerciſe* of ſuch Powers; there is an *End* of all Hope of its Safety. And this *Exerciſe* is no more hinder'd by ſuch a *Clauſe* as this *Act* contains, than it is by laying a *Condition* upon *Perſons*, which it is morally *impoſſible* for Them to comply with. Whoever therefore, thinks the *State* to have a *Right* to do this *Latter*, muſt think *It* to have the ſame *Right* to the *Former*: whatever his Notion may be of *Eccleſiaſtical Powers*, or *Spiritual Characters*. In a Word, We may defy *Any Government* in the World, to ſtand, I will not ſay, *One Year*, but *One Month*, if this *One* particular *Right* be wreſted out of its Hands, under pretence of *Powers not to be touch'd*, even in the *Exerciſe* of them: Which *Exerciſe* of them is the only Thing, the *Act* concerns itſelf with. For the *Concluſion* is immediate. If the *Exerciſe* of *theſe Powers* is not to be touch'd; then, the *Perſons* who have them are not to be touch'd. And if the *Perſons* who have them are not to be touch'd; then, *They* are not only the *Guides* and *Inſtructors* of the *People* in what is properly call'd *Religion*; but All *Civil Government*, and *Right* to *rule*, muſt in Effect be at *Their* Command, and *Theirs* only. For, from the Moment of ſuch an *Exemption*, it muſt reſt in *Them* to *raiſe* and to *dethrone*, to *lift up* and to *pull down*, as They ſhall think beſt. A *State* of Things, which the *Good Part* of that *Body*, I dare ſay, look upon with the utmoſt Abhorrence; and which the *Bad Part*, I truſt and hope, for the Sake of my Country, ſhall never enjoy!

Before I wholly leave this *Argument*, taken from ſome pretended *peculiar Privileges* of Men of the *Holy Order*; (which are ſo many Encouragements to *Them*, to deal in *Treaſon*, and all other *Crimes*, if They are ſo diſpoſed;) I will mention another Particular of the *ſame* Kind, made uſe of by the *ſame Mouth*, and for the *ſame* Purpoſe: but indeed, *Both* ſo exceeding weak, that I cannot but think, the *Perſon* who made uſe of them, knew perfectly well that He was, in theſe Parts of his Defence, only attempting to impoſe upon the *Ignorance* of *Others*, and not delivering his own *real Sentiments*.

In the *Argument* I have already conſider'd, the *Privilege* of *Clergymen* is in Effect declared to be an *Exemption* from any *Civil Reſtraint* in the Exerciſe of their Function. The *Particular* I am *now* going to take Notice of, is *Another Privilege* declared likewiſe to belong to them: And that is, the *Privilege* of having *Other Laws* of *Evidence* againſt *Them*, in *Criminal* Caſes, diſtinct from Thoſe by which *Laymen* may be convicted. For it is upon this *Foundation* that the *Argument*, p. 15. muſt rely. "Give me "leave (*ſays the late Biſhop*) to make mention of "a Text in Holy Writ. *Againſt an* ELDER "*receive not an Accuſation, but before Two or Three* "*Witneſſes*, &c." much more, ſays He, againſt One who is *more than an Elder*. I ſhall not ſtand here to ſhew, what has been ſufficiently ſhewn by *Others*, the great *Miſtake*, or *Ignorance*, of ſeriouſly applying a *Rule* given to *Timothy*, relating wholly to *Church Affairs*, and to the *Elders* then under *Him*; *of applying this, I ſay*, to the *Caſe of Treaſon* againſt a *State*. I might have added *Something worſe* than *Ignorance*; for, One can hardly believe a Man of any Parts, in earneſt, in ſuch an *Application*. But what I remark is, that the *Argument* here urged is of no Importance, unleſs it relies upon this Suppoſition, that this *Rule* taken out of *Scripture*, relates to *Civil Trials* in *Courts* of *Judicature*; and conveys a Privilege to *One Body* of *Subjects* to be exempt from the *Laws* that bind and *affect* all Others, if thoſe *Laws* differ from this *Rule*: than which there cannot be a greater *Indignity* offer'd to the *Holy Scripture*, by the *greateſt Enemy* it has in the World; nor a greater *Abſurdity* advanced upon the *Subject* of *Civil Government*. Let Us apply this ſame Rule to the *Caſe* of *Murther*; to which it reaches as *truly* as it does to that of *Treaſon*. Suppoſing (only for *Argument*'s ſake) that a *Clergyman*, or even a *Biſhop*, could be ſo wicked as to be *Guilty* of that *Crime*. In this Caſe our *Law* allows of *Evidence* from the *Concurrence* of ſeveral *Remarkable Circumſtances*, even without the poſitive *Teſtimony* of *One Witneſs* to the *Fact* it ſelf. But let the *Criminal* have the *Benefit* of this *ſame Text*; and He may ſoon claim the *Privilege* of being even an *Habitual Murtherer*, without any Fear of *Puniſhment*. And He may urge with the ſame Strength of Reaſoning, "Your *Law* indeed, and your Method of Pro- "ceeding, may be good with regard to *Laymen*, "who commit ſuch *Facts*: But as to Us *Elders*, "or more than *Elders*, St. *Paul* has eſtabliſh'd "a *Rule*, from which You ought not to vary; "and expreſly order'd that This Accuſation it "ſelf ſhould not ſo much as be receiv'd againſt "*Us*, without the Evidence of *Two* or *Three* "Living Witneſſes." For *One* of theſe *Two Points* muſt certainly be true, Either That *This* was the Deſign of St. *Paul*, to interpoſe and interru-

terrupt the *Publick Juſtice* of Mankind, in *Criminal Caſes*; whilſt He was giving a *ſmall Church* of *Chriſtians* ſome prudential *Rules* of *Behaviour* within itſelf: Which is too great an Affront to St. *Paul*, in his *Character*, either of a *Chriſtian*, or an *Apoſtle*, or a Man of Underſtanding, to be admitted into our Thoughts: Or, That *this Rule* relates no more to *Treaſon*, than it does to *Murther*; and no more to *Either* of thoſe *Crimes*; or to *Any Civil Proceſs* againſt any *Civil Criminal* whatſoever, than it does to the *Diſcipline* of an *Army*, or to the moſt diſtant Thing in Nature. It was in truth an *Inſult* upon the *Underſtandings* of his *Judges*, for the late *Biſhop* to mention it: and it would be an Inſult upon the *Common Senſe* of the *Reader*, to ſpend any more Time in ſhewing either the *Ridiculouſneſs* of the *Obſervation*, or the *Fatal Conſequences* of it to *Humane Society*, or the *little Wiſdom* of *One*, who would be thought a *Great Man*, in mentioning what is ſo ſoon detected, and ſo eaſily diſcover'd, to carry a Load of *Abſurdities* along with it.

I will conclude therefore, this *Subject* with *One* plain Word. " Nothing can be more un-
" righteous, than to make any whole *Society* of
" *Men* anſwerable for the *Extravagant Pretences*,
" or *Mad Claims*, of ſome *One* or *More* of its
" Members. But if ever that unhappy Time
" ſhould come, (which, I truſt, never will,)
" when a *Body* of *Men*, devoted by their *Profeſ-*
" *ſion*, to the *great Concerns* of the *World* to come,
" inſtead of *Other* Methods which never fail of
" procuring a laſting Reſpect and Honour,
" ſhould be *univerſally* ſeen to lay hold on every
" Opportunity in Life, and every *Expreſſion* in
" *Scripture*, to create to Themſelves a Set of
" *diſtinct* and *ſeparate* Civil Privileges from *O-*
" *ther Subjects*, or to plead an *Exemption* from
" the *Common Methods* of *Juſtice* in *Humane So-*
" *ciety*——from that Moment, They may be
" aſſured, that They are laying the Founda-
" tion of ſuch *Jealouſies*, *Diffidences*, and *Fears*,
" in *Others*, as muſt be, in the probable Event
" of Things, and the natural Operation of
" ſuch *Uneaſineſſes*, infinitely more dangerous to
" their own Security and Peace, and even to
" their higheſt *Temporal Concerns*, than *All* the
" *Imaginary Evils* They can hope to ward off
" by ſuch *Enormous* and *Unbecoming Claims*.

BRITANNICUS.

PAPER XII.

THE *Part* of the late *Biſhop* of *Rocheſter's Defence*, which comes next, relating to the *Method* of proceeding againſt Him by *Bill* in *Parliament*, and to the *Nature* of the *Evidence* received in Proof of the *Crime* laid to his *Charge*, has been in effect ſome time ago fully conſider'd, in *Two Former Papers*, which profeſſedly handled the *Argument* about the *Inherent Right* of the *Supreme Authority* of the *Nation*, to ſuch a *Procedure*; and the *Prudence* of making uſe of that *Right* upon juſt and proper Occaſions: and ſhall be further proſecuted hereafter, if need ſhall be. It is enough *here* to obſerve, that the *Right* itſelf is conſtantly allowed upon *ſome* Occaſions, by All Thoſe who have oppoſed the making uſe of it, upon *This*. And with regard to the *Perſon* here particularly concern'd, it is ſufficient to remark, that the only *Ground* of his *Complaints* upon *this Head* muſt be, that He had vainly flatter'd Himſelf with the Imagination that He was *ſafe* in the prodigious *Care* He had made uſe of to guard Himſelf againſt the *Reach* of all *Evidence* in the *Common Courſe* of *Juſtice* in *Inferior Courts*; and from thence inferr'd, how very hard it was that *One*, who had given himſelf ſo much Trouble, in order to contract the *Guilt* of *Treaſon*, and ſo much more to hide it, ſhould be at laſt *taken in the Wilineſs of his own Cunning*; and brought to that *Puniſhment* in an *Extraordinary Method*, which, in the *Ordinary Courſe* of *Things*, He hoped to avoid. I will therefore ſtay no longer upon *this* Part of the *Argument*, but only juſt to take Notice of *One* very particular *Obſervation* the *late Biſhop* has made, in the Overflowings of his *Wit* upon this *Subject*.

The *Paſſage* I mean, is in p. 15. but very imperfectly printed. " He would not, He ſaid,
deny the *Power* of the *Legiſlature* in this, or
the *like* Caſe. He repreſented *that Power* as
very great: and then added, " Greater in ſome
" Senſe than That of the *Soveraign Legiſlator* of
" the *Univerſe*—For He CAN do nothing Un-
" juſt."—whereas Humane Law-makers CAN.
——Whether This were deſign'd as *Divinity*, or *Metaphyſicks*, or *Politicks*, or *Satyrical Wit* upon his *Judges*, it is hard to determine; becauſe it is an equally *juſt* and *right* Obſervation, take it which way You will. If it were intended for a *Maxim* of *Divinity*, it is much beneath the Underſtanding and Abilities of a *Great Divine*, by virtue of flouriſhing upon the Sound of a *Word*, to ſtate a Difference between *Weak Men*, and the *Great God*; and to give the *Superiority* of *Power* to *Man* above the *Supreme* Legiſlator, upon Account of what is indeed the *Defect*, or *Weakneſs*, of *Imperfect Creatures*. For this is the Caſe. That *Almighty God* CAN do no wrong, ariſes from the Abſence of all *Weakneſs* and *Imperfection* in *Him*. That *Man* CAN do wrong, ariſes from a *Weakneſs*, and not a ſuperior *Strength* in Him; from the *Imperfection* of his *Views*, and the *Confinedneſs* of his *Powers*. So that it is the *ſame Obſervation*, in effect, as if He had ſaid, " The *Power* of *Man* is greater than that
" of *Almighty God*, becauſe his *Weakneſſes* are
" *greater*: Or, *Man* may be ſaid in ſome re-
" ſpects to be *more Powerful* than GOD, for
" this very Reaſon, becauſe He is infinitely
" more *Weak*." Than *which Obſervation*, gravely deliver'd, I deſire any Perſon to ſhow me *One*, leſs worthy of a *Chriſtian Biſhop*, or leſs becoming a *Divine* who would be thought to underſtand the peculiar Buſineſs of his own *Profeſſion*. The like may ſaid of it, in any other ſerious View. It is entirely ill-founded, and void of all Senſe and Reaſon to ſupport it. And if it

were

were meant as a Piece of *Satyrical Wit* upon his *Judges*, whom He would now repreſent as going to exceed all thoſe Bounds of *Juſt* and *Right*, by which *Almighty God* Himſelf governs all his *Proceedings*; the Beſt that can be ſaid of it is, That it is *Pointleſs Satire*, and *Cold Wit*, deſcending, in the *Luxuriancy* of *Fancy*, to *play* upon the *Ambiguity* of the *Word*, CAN; and to trifle egregiouſly in the moſt important Part of his *Argument*, relating to the *Juſtice* of what was now going forward. This Turn of Expreſſion might be tolerable, perhaps, or *pretty*, in an *Epigram*, or a Piece of *Poetry*; where a ſort of *Licence* is often given to good *Sounds* that are hardly *Senſe*; and the *Reins* generally let looſe to the *Warmth* of *Imagination* and *Invention*. But, Whether ſuch a *Procedure* was worthy of a *Perſon* of *Figure*, in *his* Circumſtances, pleading his *Innocence* at a *Bar*, before the moſt *Auguſt Aſſembly* in *Europe*; or indeed, Whether it was worthy of a *Great Man* of a *Holy Profeſſion*, in *any* Circumſtances, to introduce the *Supreme Being* into his Cauſe, by virtue of a *Compariſon*, which, duly conſider'd, muſt appear to a good Mind, too *ludicrous* and *low*; and perhaps I might have ſaid, little better than *Profane*:—— Of this, let all the World judge.

I come now to the *laſt Part* of his *Defence*; and the *Melancholy Part* of it: I mean, The late *Biſhop's ſolemn Aſſeverations*, and *Concluſion* of the *Whole*. I call it the *Melancholy Part*; and ſo muſt every Man ever think it, who has any regard left to the *Simplicity* of *Words*, or the *Sacredneſs* of *Oaths*. For in ſuch a *Caſe* as this, It makes but a ſmall Difference in my Account, whether a *Perſon*, in *direct poſitive Words*, perjures Himſelf; or, whether He *artfully* chuſes ſuch a *Manner* of *Expreſſion*, and ſuch particular *Matters* to ſpeak of, as plainly ſhew the ſole *Intention* of the Man to be the *Avoiding* every *Honeſt Declaration* that could be to the Purpoſe. When a *Perſon*, accuſed of a *particular Crime*, after having ſaid what He thought proper in his own Vindication, or in *Anſwer* to the Evidence againſt Him, changes his Tone; and *voluntarily* offers his *ſolemn Aſſeverations* in order to clear *Himſelf*; He does in effect take a *ſacred Oath*, to ſpeak to the *Main Point*; to ſpeak to it *plainly*, *explicitly*, without *Artifice*; and is in much the ſame Condition with any *One* who is formally ſworn to ſpeak the *Truth*, and the *Whole Truth*, as well as *Nothing* but the *Truth*. For the *only Uſe* of *Voluntary Aſſeverations*, in *Criminal Caſes*, muſt ariſe from their *Plainneſs*, their *Openneſs*, their *Comprehenſiveneſs*, and their *Fitneſs* to the ſingle Purpoſe, at which They would appear to aim. *Otherwiſe*, They can have no Weight, but *againſt* the *Perſon*, who has recourſe to them. And *this Effect* They muſt neceſſarily have. For, when a *Perſon* ſtands forth, and declares to his *Judges* that He is ready to purge Himſelf of the *Charge* brought againſt *Him*, by *ſolemn Appeals* to *God*, the *Searcher* of *Hearts*; and, after this *moving Declaration*, is obſerv'd to *avoid* the *Direct Charge* laid againſt Him; to pitch upon ſome nice *particular Circumſtances* of Facts, which were not made any Part of that *Charge*, at the *Bar* where He now ſtands; and to mix up his moſt *ſolemn Words* with that *Cunning* and *Art*, which ought to be far diſtant from them: It cannot be, but that his own *Method* and *Form* of *Proteſtation* muſt, itſelf, recoil upon *Him*; and be itſelf an *Argument* of that *Guilt*, it was officiouſly brought to hide.

This is the Caſe here. The late *Biſhop*, to whoſe *Profeſſion* ſuch a *Procedure* little agrees, is expreſly charged with dictating ſome particular *Letters* to Mr. *Kelly*; with *correſponding* with the *Pretender*; with *Breach* of his repeated *Oaths* of Fidelity to K. *GEORGE*, &c. After other inſufficient *Anſwers*, *He* deſires to have recourſe to the *Method* of clearing Himſelf by the moſt *ſolemn Appeals* to GOD, as the *Searcher* of *Hearts*. In this Method, and throughout the Courſe of all theſe *Appeals* to *Heaven*, He carefully avoids the Mention of K. *GEORGE*'s Name, or *That* of *Any* belonging to his Family. He never once declares *Himſelf* to have any Senſe of his *Oaths* to K. *GEORGE*, and the *Proteſtant Eſtabliſhment*, upon his Mind: or once acknowledges K. *GEORGE*'s *Right* to theſe *Kingdoms*. He never once, ſo much as in *Words*, diſowns the *Pretender*'s Right to this *Crown*; or diſclaims all *Correſpondence* with Him; or declares even the coldeſt Reſolution *againſt* Him. Theſe Particulars, conſidering the *Charge* laid againſt Him, of breaking through the Sacred *Ties* of Repeated *Oaths*, could not be *forgot*; could not be omitted through Haſte, or Inadvertence, or Defect of *Memory*; but muſt be *deſignedly*, *wilfully*, *deliberately*, paſs'd over. And then, when He comes to the *Main Particular*, He runs off from That, as it was laid againſt Him in the *Bill*; and, inſtead of denying, in the Preſence of God, that He ever *communicated*, or dictated any *Letters* to Mr. *Kelly*, or the like; He, dextrouſly, by I know not what Figure of *Oratory*, or what *Rule* of *Art*, ſolemnly denies that He ever SAW any ſuch Letters of *Kelly*'s—— or that the *Contents* were ever *communicated* TO Him, BY *Kelly*.——Such a Uſe of Words as this, and ſuch a *Change* of *Language*, are *bad* every where; but are *inſupportably bad* in a Sentence, uſher'd in with a *ſolemn Appeal* to *Heaven*, and ſanctified with the *Awful Name* of GOD.

After having thus put a *Cheat*, as He hoped, upon the *Ears* of his *Audience*; and after having *ſeem'd* to *deny* (what He did not at all *deny*) his *dictating Letters* to *Kelly*, in the *Correſpondence* laid to his *Charge*; *After this*, He concerns Himſelf only with *Other* particular *Circumſtances*, which were *not* the *Subject* of the *Charge* againſt Him; but lay ſcatter'd in the *Report* of the *Houſe of Commons*; and moſt of Them only *there* mention'd as *Matters* related by *Perſons* examin'd concerning what They had heard about the *Conſpiracy*. *Some* of theſe *Particulars*, with very peculiar Circumſtances of *Time* and *Place*, (tho' as I have obſerv'd, not made

made any Part of the *Charge* againſt *Him*,) He has taken upon Him more expreſly to deny; whilſt He was conſcious, He avoided the *True Points* laid upon Him; and might ſafely deal about his *Proteſtations*, where there was nothing particular, ſo much as alledged in his *Trial*, to confront and invalidate them. This is the *Method* He thought fit to take, in ſo ſerious and ſolemn a *Matter*, as That of *Appealing* to *God*, the *Searcher* of *Hearts*. And if the *Careful Omiſſion* of *All* that was *truly proper* for the Declaration of his *Innocence*, upon ſuch an Occaſion; the *artful Evaſion* of what He would ſeem to ſpeak to, by a *ſubtle Change* of the *Main Charge*; and the dextrous *Running away* from the *Real Accuſation* againſt *Him* in the *Bill*, to ſeveral wandring Particulars in the *Report* not alledg'd againſt Him: *If All this* be not ſufficient to ſatisfy any unprejudiced Perſon, that *Guilt* was the Real *Ground* of ſuch a *Behaviour*, as *Guilt* alone could make neceſſary; I know not what to add. This I am ſure of, that ſuch *Hiding* and *Concealing* of *Truth*; ſuch *Avoiding* of all plain Language; ſuch *Prevarication* and *Mental Reſervation*, after having made a *ſolemn Shew* of Appeal to *God*, can be thought to differ very little from the *Guilt* of *Perjury*; or the greateſt *Diſreſpect* to the *Sacredneſs* of an *Oath*. *Better* a thouſand times had it been for *One* of his *Character*, never to have enter'd into a *Method* of *Defence*, which was not forced upon Him; than to have enter'd into it with ſuch *Solemnity*, and to have come out of it with ſuch a *Blot* of *Falſhood*, and ſuch a *Mark* of *Guilt*, added to all the reſt.

The *Concluſion* of his *whole Defence* is of a Piece with *this* Part of it. It is a *Concluſion*, not only very moving; but which would very well become the *Mouth* of a *Good*, *Upright*, and *Innocent Man*, ſubmitting Himſelf to *Injuſtice*, and *Wrong*, under a Senſe of *God's over-ruling* Providence. But, conſider'd in the *Mouth* of *One*, ſo conſcious to Himſelf of his own *Inward Guilt*, as not to be able plainly to diſown the *Charge*; of *One*, proved, by a Multitude of convincing Circumſtances, to have brought Himſelf to this Condition by *Breach* of ſolemn *Vows* and *Oaths*; and of *One*, whom *All* his own *Art* and *Cunning* could not cover from the Light of *Evidence*——It then becomes rather an *Aggravation* of his *Crime*, than an *Argument* of his *Innocence*; and is found to *move* the *Indignation* and *Zeal* of *Mankind*, much more than their *Pity* and *Compaſſion*. It is at beſt no otherwiſe eſteem'd than it wou'd have been, had it come from a *Perſon*, whoſe Characteriſtick, and diſtinguiſhing Mark, through his whole Life of Controverſy, was well known to have been a peculiar Knack and Dexterity of calling in the *Holy Scripture* into *All* his private Quarrels; and of applying the *ſacred Words* of it, to all the Purpoſes of his own *Perſonal* Paſſions and Reſentments.

If I have quite wearied the *Reader* with the *Tedious Particularity* of theſe *Remarks* upon *Every Branch* of the late *Biſhop* of *Rocheſter's Defence*; I can make no other *Apology* for it, than that I thought Myſelf obliged to it by my Duty to my Country; and by the *Part* every Subject ought to take in the Honour of *Thoſe*, who have been infamouſly and ſcandalouſly abuſed, for the *Juſt Judgment* They paſſed upon *Him*. I will make an End of this *Subject*, with *Two* or *Three* General *Obſervations* upon the *Whole*; which ſhall follow in the *next Paper*.

BRITANNICUS.

PAPER XIII.

UPON the *Review* of the late *Biſhop* of *Rocheſter's Defence* of *Himſelf* from the *Charge* laid againſt Him, an *Obſervation* or *Two* offer Themſelves, which I can't forbear to dwell a little upon, before I quite take leave of the *Subject*. The *firſt* which occurs is, "That *Guilt* can ſometimes tranſform a *Man* of the *Brighteſt Parts* into *One* of the *Oppoſite Character*; and put the *Witty* and *Ingenious* upon the *Level* with the *Dulleſt* and *Heavieſt* of Mortals." If We were to comprehend the *Whole* of the late *Biſhop's* Anſwer, in the ſhorteſt Compaſs, it might be all rightly expreſs'd in the One ſingle Word, FORGERY, repeated over and over again, and applied equally to *Every Particular*. For Inſtance—— Qu. What Account do You give of the *Three Treaſonable Letters*, which plainly deſcribe *You*, as the *Perſon* who dictated them? Anſ. *Forgery* between a *Great Miniſter* and *Another*. Q. How can this be, when it appears the *Other* Perſon was not known to that *Great Miniſter*, till *three Months* after theſe *Letters* were intercepted? A. *Forgery*, notwithſtanding this ſeeming *Impoſſibility*. Q. How came They to be written in Mr. *Kelly's* Hand? A. *Forgery*. If They were ſo, it is very well known that there has been ſuch a *Thing*, as an *Exact Imitation* of *Another Man's* Hand. Q. How came an *Anſwer*, to theſe *Letters* from *abroad*, to be receiv'd *here*? A. *Forgery*. It was contrived ſo. The *Anſwer* was firſt made here, and ſent abroad, in order to be intercepted when it ſhou'd come back. Q. But how is this poſſible, when Mr. *Kelly*, whom You ſtill treat as your *Friend*, call'd for *One Anſwer* Himſelf, and order'd a *Friend* to call for *Others*? A. *Forgery*. This is my *Anſwer* ſtill, without thinking Myſelf obliged to account for all *Difficulties*. Q. How came the *Letter* directed to *Dubois*, to be found in your *Cuſtody*? A. *Forgery* again. They, who found it *there*, know beſt who order'd it to be brought thither. Q. How could it be *forged* by *Thoſe*, who, as You Yourſelf obſerve, did not at firſt know what Uſe to make of it? A. *Forgery*, I inſiſt upon it. Q. But how came it to have the *ſame Seal*, which was afterwards upon a *Letter* acknowledg'd by *Yourſelf* to be *Your own*?

A. *Miniſterial Forgery.* I can give Proof that there has been ſuch a Thing, heretofore, as forging *One Seal* from the *Impreſſion* of *Another.* This is my *Anſwer,*—— I will not put any more *Queſtions,* ſince We are ſure that the *Anſwer* to them *All,* (were They *ten times* ſtronger than Thoſe already named,) would *begin* and *end* in nothing but the *ſame Sound, Forgery.*

Can any *Little Genius,* from this Time, ever want a *Reply* to the moſt perplexing *Difficulty,* when ſo *Great a Genius* has, in his own Example, ſhewn the *Eaſy Expedient* of having *One* and the *ſame* Word conſtantly at hand? What *Accuſation* can ever hereafter touch any *Mortal* of the *Loweſt Form,* when a *Perſon* of *Exalted Talents* has taught him to think it ſufficient to elude *Every* Part of an *Accuſation,* by the Repetition of a ſingle *Word,* which requires neither *Parts* nor *Learning* either for the Invention, or the ſounding of it? But, inſtead of envying the Happineſs and the irreſiſtible Force of ſuch a *ſtanding Plea;* Who can forbear to wonder that a *Perſon* endow'd with ſuch a Fruitfulneſs of *Invention,* and ſuch a nimble *Vivacity* of *Parts;* and *now lately* ſo celebrated for *Unparallel'd Abilities,* could content Himſelf with ſo *vulgar,* ſo *unvaried* a *Reply* to *Every* thing; and ſtoop his *Great Soul* to a Method, which lies ſo open to the *Meaneſt Underſtanding.* Take any *Layman* of the moſt *ordinary Capacity;* and He may, upon the like Occaſion, eternally cry out, *Forgery, Forgery.* Nay, (what is perhaps *Lower* in the Opinion of *Some*) Take *Any One* of *Thoſe* now left behind upon the *Bench,* with Capacities as *Mean* and *Contemptible,* as the *Wickedeſt* or *Wittieſt* of this *Great Man's* Advocates have *lately* invented for *Them,* in order to raiſe their *Hero's* diſtreſt Character, and help his diſtreſt Cauſe, ——Take ſuch an One, and put Him into their *Idol's* Place; and try Him with the *ſame Queſtions,* and ſee if He could poſſibly anſwer ſuch a *Charge* with a leſs ingenious, or a leſs *happy Variety of Expreſſion,* than this *Miracle* of *Wit* and *Oratory* and *Poetry* has done.

But why do I mention that *Bench,* unleſs to *bewail* it? *Unhappy Bench?* if the *Paintings* beſtowed upon it by ſome late Hands be natural and juſt—— "*Unhappy Bench!* abandon'd by all "the *Graces* and the *Muſes,* at that Moment "when the late *Biſhop* of *Rocheſter* removed "from it! *Unhappy Bench!* forſaken *Now* by all "the *Wit* and *Politeneſs,* which *once* adorn'd it!" —— But as theſe Strokes of *Satire* have fallen upon it, for *Virtue* and our *Country's* Cauſe, All We of the *Laity,* who love *Virtue* and our *Country,* will rather ſay, Let the *Charms* of *Wit,* and *Song,* and *Epigram,* periſh, when *Juſtice* makes its Demands. —— And let it be an Eternal Glory to that *Bench,* to have join'd in the open Deteſtation and Puniſhment of *Knavery, Diſſimulation, Perfidy* to *God* and *Man, Falſhood* in Word and Deed; and *Perjury,* the deepeſt of *Crimes* againſt *Religion* as well as *Society.* If ſuch a *Conduct* has led the *Enemies* of the *Publick* to ſpeak *meanly* of Them; I hope, and dare ſay, There is not One of Them, who is not ready to reply, "That He had much rather be repreſented by *Such,* and upon *ſuch* an Account, under the *Loweſt* of *Characters;* than to purchaſe the *Reputation* of *Great Abilities,* at the Price of *Ruin* to his *Country,* and *Scandal* to his *Profeſſion.*" That *Good Man* who now preſides in the *See* of *Rocheſter,* has experienced, in a particular Manner, the *Malevolence* of *Witleſs Infamy.* He is *Above* it all. And it is enough to ſay of Him, what *Thouſands* in this *City* know to be true, That He never had (*I will not ſay,* a Crime, *but*) a *Fault* laid to his *Charge* by *Malice* itſelf, till he ſucceeded Dr. *A.* at *Rocheſter;* and that through his whole Life, his *Character* has as far outſhone *That* of *Another,* (*now only* ſo much extoll'd by a *Few,*) as the *Charity* and *Humility* of a *Chriſtian,* the *Good Judgment* and *Sound Learning* of a *Divine,* the *Exemplary Labours* and *Prudent Conduct,* as well as *Uſeful Preaching,* of a *Pariſh-Miniſter,* exceed the *Turbulency* of *Ambition,* the *Flouriſhes* of *Wit* or *Poetry,* the *Party-Management* of an *Heated Brain,* the *Flames* of *Paſſion* oppoſed, and the *Falſeneſs* of an *Aſpiring Spirit* ungovern'd by any thing but a *Miſtaken Cunning.* If any thing of this ſeems too ſevere, Let *Them* anſwer for it, who could find no other way of *raiſing* their *Great Man's* Character, but by depreſſing *That* of *Greater* and *Better;* or of paying their *Honours* to *Him,* without ſcattering abroad their *Infamous Abuſes* upon *Others.*

I return from this ſhort *Digreſſion,* to the *Obſervation* which led Me to it. And if any One now ask, How it came to paſs that no Defence remain'd to a Man of Uncommon Invention, and Abilities, but the *One* repeated *Excuſe* of *Forgery;* there can be but *One Anſwer* to this, *viz.* That *Guilt* alone *could be,* and therefore *was,* the *True Cauſe* of it: *Guilt,* —— which *enervates* all the *Powers* of *Wit* and *Eloquence!*— *Guilt,* which can bring down the *Brighteſt* to the Groveling Eſtate of the *Heavieſt!* —— which can reduce a *Man* of the *Fineſt Fire,* and *Sparkling Ingenuity,* to a *Condition* little above *That* of the *Dull* and *Stupid;* and can force upon a *Superior Genius* the *Neceſſity* of ſtooping as *Low,* as the *Loweſt* of *Common Mortals!*

But there is *Another Obſervation,* which has been continually preſent to my Mind, thro' this *Whole Tranſaction,* and thro' every Step of the late *Biſhop's* Defence. "If He was reſolv'd that *Forgery* ſhould be his *One* and *Only* Refuge; It cannot but be eſteem'd a *certain Mark* of his *Guilt,* that He never once charged any Part of it upon *Kelly;* but, on the contrary, always ſeem'd ſolicitous, upon every the leaſt Occaſion, to declare his abſolute Freedom from all Suſpicion of that ſort." And perhaps there may be more in this *Remark,* than at firſt there ſeems to be. For thus ſtands the *Caſe.* He was accuſed of *High-Treaſon,* in correſponding with the *Pretender,* and the *Pretender's Agents.*

This

This *Correſpondence* was proved principally by *Letters written*, and *proved* to be *written*, in *Kelly*'s Hand. *Kelly* was own'd to be a *Friend* and *Acquaintance* of the *Biſhop*'s. The *Marks* and *Characters in the Letters* were acknowledg'd by the *Biſhop*, to point *Himſelf* out pretty ſtrongly. He often ſaid, They muſt be *written* by *One*, who narrowly watch'd the *Circumſtances* of *Himſelf* and his *Family*. And the *Lords*, at whoſe *Bar* He now ſtood, had *before*, by a *ſolemn Judgment*, declared Themſelves ſatisfied that *Thoſe Letters* were the *Hand-writing* of *Kelly*. The *Plea* then, which naturally offer'd itſelf to the *late Biſhop*; and which muſt have had its due Force, and that a very great one, if it could not have been diſproved, was this. "*My Lords*, No One is anſwerable for *Letters*, which *Another* may take upon Him to write in *His Character*; unleſs He can be proved to have directed the writing of ſuch *Letters*. Were it otherwiſe, the moſt *Innocent Men* in the World would be the *Prey* and *Sacrifice* of the *Wickedeſt* and *Vileſt*. Theſe *Letters* are proved to be Mr. *Kelly*'s Hand-writing: And *You* have ſo judg'd Them to be. He was acquainted enough with *Me* and my *Family*, to know and find out and mark thoſe *ſeveral Circumſtances*, which appear in theſe *Letters* to centre in *Me*. I have had no Part in them. I never dictated a *Sentence* to *Him*. I charge Him with *forging* a *Correſpondence* in my Name. At leaſt, as *Your Lordſhips* have declared Him *Guilty* of *writing* this Treaſon; I, who know my own Innocence, have a Right to reſt my Cauſe upon this, That He wickedly wrote them, and ſent them away, and received *Anſwers* to them, without my Privity, or my bearing the leaſt Part in the *Whole*. And I hope, I am not anſwerable for what *He*, or any *Acquaintance* of mine, might *forge* in *my* Name, to help their own Cauſe, or to carry forward Purpoſes of their own, utterly unknown to *Me*."

In *This* indeed, there had been ſome Senſe; and I will add, *ſome Strength* too; if Mr. *Kelly* could not have diſprov'd it by a full Diſcovery. And this lay ſo fairly in the Way, that it could not have been over-look'd, or avoided by an *Innocent Man*. But when the late *Biſhop*, through his *whole Defence*, was ſeen cautiouſly to guard againſt even every diſtant *Inſinuation* of this ſort; nay, to appear angry, if ever the *Counſel* for the *Bill* alledg'd that if theſe *Letters* were *forged*, it muſt have been done by Mr. *Kelly*; and to cry out, *No, No,— No One has any Thought of that ſort*: When, inſtead of *This*, (which was the only natural *Plea*,) the *Miniſters* were to be loaded with every Part of the whole Maſs of *Forgeries*, tho' in the very Suppoſition *abſurd*, and in the Execution *impoſſible*; and it was *All* to be declared *Miniſterial Forgery*, and Nothing elſe—When this is the *Caſe*, I ſay, it muſt preſently raiſe an *Enquiry*, Whence can this *Conduct* proceed? Whence could it be, that a *Perſon*, who could not but ſee ſuch a *Plea* lie before Him, ſhould refuſe all Aid from *That*, and content Himſelf with *Another*; which is neither *credible*, nor *poſſible*, conſidering all *Circumſtances*? And with regard to this *Enquiry*, I can neither find out, nor conceive, any other *Anſwer*, but That *Guilt* made the *Plea* impracticable; That He knew that He was not *Innocent*; and That He was juſtly afraid that, upon ſuch a *publick Charge* againſt *Kelly*, his *Friend* could not be ſilent, but muſt inevitably declare the *Truth*.

In return therefore, to that *Conſummate Sedate Aſſurance* with which Mr. *Kelly* had ſolemnly denied Himſelf to have any ſuch Affairs as *Theſe* with the late *Biſhop* of *Rocheſter*; That *Biſhop* could do no leſs than avoid any the ſlighteſt *Inſinuations* againſt ſo *Gentleman-like a Friend*, who had out-faced *Truth* in ſo handſome a manner, rather than hurt his *Principal*. But *not only* this; (for this alone would never have prevented a *Criminal*, from making uſe of the only good *Plea* in his Way;) but his own *Danger* made Him reject it; and the *Evil Conſequences* to Himſelf from his making uſe of it, preſenting themſelves to his View, affrighted Him from it. And that it could be nothing elſe, appears from hence. If the *late Biſhop* had known Himſelf to have been perfectly *Innocent* of all ſuch *Dealings* with *Kelly*; He had then nothing to fear from making uſe of that *Circumſtance* of *Kelly*'s writing theſe *Letters*, (already judg'd ſo by the *Lords*) to his own Advantage; and pleading the great and crying *Injuſtice* of *his* ſuffering for what *Another*, a profeſt *Jacobite*, had written in his Name, for the Service of the *Pretender*'s Cauſe. And if Mr. *Kelly* had been angry at this, it was nothing to the *Prelate*, (then upon his *Trial*, under a very grievous Accuſation,) who could receive *no Hurt* from his Diſpleaſure, if his Breaſt was free from all *Conſciouſneſs* of *Guilt*. But if He felt within Himſelf the *Stings* of *Guilt*, the *Caſe* was otherwiſe. For if He had accuſed Mr. *Kelly* of ſo groſs a Crime, as forging a *Criminal Correſpondence* in *His Name*, and to his Deſtruction, unleſs detected; the *Gentleman*, who in ſo *compoſed* a Manner had utterly denied his own *Hand-writing*, and in ſo *friendly a Manner*, had gone out of his Way to defend the *late Biſhop* more than *Himſelf*, could not have born an *Imputation* of ſo much *Vileneſs*, as *That* of *Forgery* to ruin this *Great Man*; but muſt have been provoked, (and juſtified in it by all the World,) to have made the *fulleſt Diſcovery* of the *Whole Affair*: And this muſt have ended in the utter *Confuſion* of his *Principal*, tho' in nothing *worſe* to *Himſelf* than what was already decreed againſt Him.

And therefore, it may unanſwerably be argued, *Guilt alone* made the *late Biſhop* rather chuſe the *popular inflaming Topick* of *Miniſterial Wickedneſs*, from which He hoped for ſome ſmall Chance of *Good* to *Himſelf*; than *that other Plea*, from which (*not being Innocent*) He had nothing to *hope*, but His own *Ruin*, without Redreſs,

Redreſs, or Apology. And, upon the Whole, —*He*, who took *not one* of thoſe *Methods* of *Defence*, which *Innocence* could not but have taken; — *He*, who throughout his *Trial*, choſe thoſe *Methods* of *Defence*, which *Guilt* alone could make neceſſary, or plauſible; — *He*, who had no *Reply* to make, but what was always taken from a *groſs Imputation* upon *Miniſters*, which plainly appear'd to be, in itſelf, *Contradiction*, and *Impoſſibility*; — Such an One muſt be eſteem'd *Guilty*; or elſe, (as I have had Occaſion to obſerve, in other Parts of this *Cauſe*,) *Invention* and *Reality*, *Truth* and *Falſhood*, *Forgery* and *Juſt Evidence*, muſt be accounted the *ſame*; and never be diſtinguiſh'd from one another, in all *Judicial* Affairs: Which can end in nothing but firſt *Confuſion*, and then the total *Diſſolution* of all the *Bands* of *Humane Society*.

BRITANNICUS.

FINIS.

THE REPLIES OF *THOMAS REEVE*, Esq; AND *CLEMENT WEARG*, Esq; IN THE HOUSE of LORDS,

The Thirteenth of *May*, 1723.

In Behalf of

The BILL to inflict Pains and Penalties on the late Bishop of ROCHESTER,

AGAINST THE

DEFENCE

Made by the said

Late Bishop and his Counsel.

LONDON,

Printed by S. BUCKLEY in *Amen-Corner*, 1723.

[Price One Shilling.]

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AND

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The Thirteenth of May, 1723.

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of ROCHESTER,

AGAINST THE

D E F E N C E

Made by the said

Late Bishop and his Counsel.

Mr. *REEVE*'s REPLY

TO THE

DEFENCE made by the late BISHOP of *ROCHESTER* and his COUNSEL.

May it pleaſe your Lordſhips,

TO permit me to offer ſomething, by way of Reply to the Arguments that have been made uſe of, and the Evidence that hath been given, in Behalf of the Biſhop of *Rocheſter*.

My Lords, I ſhall not trouble your Lordſhips with entering far into the Arguments ſo much inſiſted on by the other Side, *concerning* the Power of the Parliament to paſs Bills of Attainder. They have been ſpoken of by the Counſel of the other Side, as inconſiſtent with our Conſtitution; Bills of Pains and Penalties, and Bills of Attainder, have been treated by them, as unknown to our Conſtitution, unleſs in a few Inſtances, which afterwards have been condemned.

And yet they have mentioned the Caſe of Sir *John Fenwick*, which is a Precedent of a Perſon attainted without legal Evidence, tho' he were forth-coming and ameſnable to Juſtice, and his Attainder remains ſtill unreverſed. And as to Bills of Pains and Penalties, they ſhould, before they inveigh'd ſo much againſt them, have conſider'd, that two ſuch Bills have now already paſſed your Lordſhips Houſe; and the Bills againſt *Counter*, *Bernardi*, and others, and againſt the late South-Sea Directors, are Precedents of Bills of this Kind.

They have mention'd many Inſtances, where Perſons have been proſecuted according to the known Rules of Law, and the Parliament did not think fit to interpoſe. And doubtleſs, my Lords, generally ſpeaking, where Evidence is to be had and to be produced, and the Perſons are forth-coming, it is right to proceed according to the known Rules of Law, in the ordinary Courts of Juſtice.

But where Conſpirators are carrying on their Deſigns with Art, and contriving to ſhelter themſelves from thoſe known Rules of Law; we apprehend, my Lords, the ordinary Proſecutions at Law will be no Argument againſt the Legiſlature's making uſe of their Authority, when the Circumſtances of the Caſe, the Preſervation of the Publick Peace, the Safety of the Conſtitution, require it.

But I beg leave to mention one Inſtance, in which they are miſtaken: They have ſaid, that in the Caſe of the Regicides (that horrid and deteſtable Treaſon!) they were all proſecuted according to the ordinary Courſe of Law; but if they had look'd into the Acts of Parliament, they would have found, that ſome of them were puniſh'd by Bills of Pains and Penalties. The Lord *Monſon* and others, who ſat as Judges in the pretended High Court of Juſtice, were reſerv'd by two Acts of Parliament that paſs'd, to have Pains and Penalties inflicted upon them; and tho' there was Evidence in that Caſe to have attainted them according to the ordinary Courſe of Law, the Parliament did proceed to puniſh them by Pains and Penalties, and they were not try'd according to the ordinary Courſe of Law.

This I beg Leave to obſerve to your Lordſhips, in relation to the Power and Uſage of Parliaments, in paſſing Bills of this Kind.

My Lords, in the next place I beg Leave to take Notice, that the Obſervations that have been made, and the Evidence that hath been given by them,

as to Facts mention'd in the *Report* and *Appendix*, concerning which we have given no Evidence at all, ought to be laid out of this Caſe, as foreign to the Matter before your Lordſhips. The Matters we have given in Evidence, it was proper for them to anſwer; but they have gone into the *Report* and *Appendix*, in order to diſprove Facts mention'd there, tho' we gave no Evidence concerning them; and we humbly apprehend, it is not neceſſary for us to follow them as to thoſe Facts; for if we maintain the Charge we have given, it doth not concern us to make good every Article in the *Report* and *Appendix*, relating to this Reverend Prelate now before your Lordſhips.

My Lords, we muſt admit the Evidence produced to charge the Reverend Prelate at your Lordſhips Bar, is Evidence not all of it ſtrictly legal againſt him, if he was to be try'd according to the ordinary Courſe of Juſtice in *Weſtminſter-Hall*. But, my Lords, we humbly apprehend you are not tied to the Rules of *Weſtminſter-Hall*; for if your Lordſhips are ſatisfied that the Facts proved, laying them all together, do conclude the Reverend Prelate at the Bar guilty, notwithſtanding they do not amount to Evidence according to the ordinary Rules of *Weſtminſter-Hall*, your Lordſhips will be of Opinion, that it is fit he ſhould be puniſh'd.

My Lords, the Evidence that hath been given by us, as to Facts committed by the Biſhop of *Rocheſter*, hath been chiefly from three Letters, dated the [illegible] of *April*, 1722; each of theſe was written in the Hand of Mr. *Kelly*, and dictated by my Lord Biſhop of *Rocheſter*.

My Lords, theſe Letters are writ, ſome Part in Cyphers, and ſome Part not; they are ſign'd by the Names of *T. Jones*, *T. Illington*, and the Figures 1378. My Lords, if theſe three Letters are proved, to your Lordſhips Satisfaction, to be the Letters of my Lord Biſhop of *Rocheſter*, we humbly apprehend they do prove all the Allegations in the Bill, which my Lord Biſhop of *Rocheſter* hath been pleaſed to call upon us to ſhew that he hath been guilty of. They do contain, as we ſay, and as plainly appears from the Letters themſelves, Matters relating to Conſulting and Conſpiring to invite a foreign Force into this Kingdom for an Invaſion, and to promote an Inſurrection. And if the Name of *Jackſon* is the Name by which the Pretender is ſignified, that Letter will prove the other Part of the Bill, that the Biſhop of *Rocheſter* hath held Correſpondence with the Pretender himſelf.

My Lords, I beg Leave to obſerve upon the Word *Jackſon*; it hath been inſiſted upon, that tho' it is contain'd in *Plunket*'s Cypher, yet *Jackſon* may ſignify in Mr. *Plunket*'s Cypher one thing, and in theſe Letters another; and theſe Letters are contrived in Figures, and not thoſe Cant Words and Names, as in Mr. *Plunket*'s; but ſo far they go, to admit that in *Plunket*'s Cypher the Name of *Jackſon* ſtands for the Pretender.

My Lord Biſhop of *Rocheſter* was pleaſed to obſerve, that in all the Correſpondence between Mr. *Kelly* and the Perſons with whom he correſponded Abroad, there is no Name contain'd in Mr. *Plunket*'s Cypher, which *Kelly* hath made uſe of in any of his Letters, but this.

My Lords, it appears to your Lordſhips, that in the Correſpondence between Mr. *Kelly* and the Perſons Abroad, ſeveral other Names, mention'd in *Plunket*'s Cypher, have been uſed; and it is not material, whether theſe Names are contain'd in the Letters writ by *Kelly* himſelf, or in thoſe of his Correſpondents writing to him. When his Correſpondents write to him, in Anſwer to his Letters, they uſe ſeveral other of the Names which are contain'd in *Plunket*'s Cypher, which, my Lords, we humbly apprehend is the ſame Thing as to this Purpoſe, as if they were uſed in Mr. *Kelly*'s Letters; for he muſt be preſumed to know the Meaning of thoſe fictitious Names, when they are contain'd in Letters that come in Anſwer to Letters from him, in the Correſpondence which he carries on; and we humbly apprehend, my Lords, that is as ſtrong an Evidence, as if they had been contain'd in the Letters writ by *Kelly* himſelf. Therefore, my Lords, I beg Leave to take Notice of ſeveral Names that are in Mr. *Plunket*'s Cypher, and uſed by Mr. *Kelly*'s Correſpondents, in their Letters to him.

There is the Name of *Xoland*, which ſtands for *Wogan*; the Name of *Lane*, which ſtands for Lord *Marr*; the Name of *Cane*, which ſtands for *Dillon*; and the Name of *Howell* for *Glaſcock*. My Lords, all theſe Names are in Mr. *Plunket*'s Cypher, and made uſe of in the Letters that paſs'd between Mr. *Kelly* and his Correſpondents.

My

My Lords, I ſhall beg Leave to ſubmit it to your Lordſhips, when, among Perſons concerned in carrying on the ſame Conſpiracy, Cyphers are made uſe of, and in the Cyphers of ſome of the Conſpirators, the Names comprized in Letters writ by others of the Conſpirators are contain'd, whether it is not a reaſonable Evidence, that thoſe fictitious Names contain'd in the Cyphers of one of the Conſpirators, and made uſe of in the Letters of the other, ſignify the ſame Perſons, unleſs there is ſomething to diſtinguiſh the Caſe, and ſhew that the ſame Names are made uſe of to denote ſeveral Perſons.

My Lords, we humbly ſubmit it to your Lordſhips, that it is plain from the Evidence we have given, that theſe three Letters are writ by the ſame Hand, and, by the Circumſtances in the Letters, they appear to be dictated by one and the very ſame Perſon. Therefore, my Lords, the Enquiry will be, who is the Perſon deſcribed by the Names of *T. Jones*, *T. Illington*, and the Figures 1378; for if we have proved the Biſhop of *Rocheſter* to be denoted in this Correſpondence by the Names *Jones* and *Illington*, and that theſe Letters were written by *Kelly*, and dictated by *Jones* and *Illington*, then the Biſhop of *Rocheſter* is the Perſon by whom theſe Letters were dictated.

This will appear to your Lordſhips from other Facts contained in Letters intercepted in this Correſpondence; Facts that, all of them together, can relate to no Perſon but the Biſhop of *Rocheſter*.

The Circumſtances of the Biſhop and his Family are exactly deſcribed in the three Letters of the 20th of *April*; and thoſe Circumſtances plainly ſhew, that all the three Letters were dictated by the ſame Perſon, and that the Figures 1378 denote the ſame Perſon that *Jones* and *Illington* do.

My Lords, there are ſeveral other Facts contain'd in the intercepted Letters, that denote *Jones* and *Illington* to be the Biſhop of *Rocheſter*. One of them is, the Fact relating to a Dog ſent over to Mr. *Kelly*, which appears, by the Evidence given, to have been deſign'd for the Biſhop of *Rocheſter*: Therefore in the Letter mark'd *E.* 32. (that is a Letter to Mr. *Kelly* by the Name of *Hatfield*, and directed to Mr. *Hatfield*, under Mr. *Anthony Saunders*'s Cover, which is one of the Perſons deſcribed in the Liſt of Directions taken in *Kelly*'s Pocket-Book,) the Letter mentions *the little Dog was ſent ten Days ago, and order'd to be deliver'd to you*, &c. —My Lords, afterwards Mr. *Kelly* by a Letter dated the 30th of *April*, 1722, *E.* 35. (it is a Letter from *J. H.* one of Mr. *Kelly*'s Names, to *Howell*, and which hath been proved to be Mr. *Kelly*'s Hand-writing) ſays, *I received the Preſent ſent by the young Lady, but in ſuch a bad Condition, that I am afraid he will never do well; for he had a Leg broken in his Journey, which is ſtill very bad with him; however, I will take all the Care imaginable of him, and inform Mr.* Jones *ſoon of it, to whom, I know, any thing from that Quarter will be very acceptable.*

My Lords, it appears by this Letter of Mr. *Kelly*'s, that this Dog, that is there mention'd, was not a Dog for Mr. *Kelly* himſelf, but for Mr. *Jones*; a Dog for a Perſon denoted and underſtood by the fictitious Name of *Jones*: So that if the Evidence that hath been given of this Dog being deſign'd for the Biſhop of *Rocheſter*, is true; then it follows that Mr. *Jones*, mention'd in this Letter of *Kelly*'s, denotes the Biſhop of *Rocheſter*.

There is another Letter relating to this Dog, *E* 42; there is mention'd the Concern Mrs. *Illington* was in for poor *Harlequin*; *Mrs.* Illington *is in great Tribulation for poor* Harlequin, *who is in a bad Way, having ſlipped his Leg again before it was thoroughly well; however, his Obligations to the Lady are as great, as if he had come ſafe, which he deſires you to let her know.*

My Lords, this ſhews that *Jones* and *Illington* are the ſame Perſons. It appears by the former Letter, that the Preſent was for Mr. *Jones*, and he ſhould ſoon know of it; this Letter ſays, that *Mrs.* Illington *is in great Tribulation*, &c. *However* his *Obligations to the Lady are as great*, &c. Tho' in the firſt Part of the Letter it is *Mrs. Illington*, in the latter Part it is *HIS Obligations to the Lady are as great as if he had come ſafe, which HE deſires you to let her know.* That ſhews, that the Perſon in the former Letter, deſcribed by the Name of *Jones*, is in this Letter deſcribed by *Illington*, and conſequently *Jones* and *Illington* are the ſame Perſon.

My Lords, the next Circumſtance obſervable in theſe Letters, the intercepted Correſpondence between Mr. *Kelly* and his Friends Abroad, is the Letter dated the 30th of *April* 1722, *E.* 35. which ſays, *Mrs.* Jones *died laſt Week, and when the Days of Mourning are over, he will, I hope, be fit for Buſineſs.*

My Lords, it hath been given in Evidence, that the Biſhop's Lady, his own Witneſſes as well as ours, have given an Account, that the Biſhop's Lady died

the

the 26th of *April:* This Letter is dated the 30th of the ſame *April*, conſequently this ſuits exactly with the Biſhop's Circumſtances as to his Lady being dead.

My Lords, that *Jones* and *Illington* are the ſame, appears likewiſe by the Anſwer given to this Letter dated the 20th of *May* 1722, *E.* 43. which ſays, *Mrs.* Chivers *gives you her kind Service, and prays you will condole in his Name on the Death of Mrs.* Illington. My Lords, this Letter is in Anſwer to that of the 30th of *April*, for it begins, *Yours of the* 30th *of* April, *which ſhould have come by laſt Poſt, is come to Hand*; and this Letter condoles on the Death of Mrs. *Illington*, whereas the Letter of the 30th of *April* gave an Account that Mrs. *Jones* was dead. So that *Jones* and *Illington* appear by theſe Letters to denote the ſame Perſon.

My Lords, theſe are Letters writ by Correſpondents, concern'd, one with another, in carrying on this Conſpiracy. It hath been objected on the Behalf of my Lord Biſhop of *Rocheſter*, that he is not concern'd in writing of theſe Letters, nor did any of them come to his Hands, nor were they writ by his Directions, but that they paſſed between Mr. *Kelly* and his Correſpondents Abroad.

Your Lordſhips, we hope, will be of Opinion, in a Correſpondence of this Nature, (unleſs they ſhew ſomething to induce your Lordſhips to believe, that there hath been a malicious Deſign in the Parties between whom theſe Letters paſs'd, to denote the Biſhop of *Rocheſter*, in order to charge him) that theſe are Facts, which amount to a certain Proof who the Perſon is, that uſed to go by the Names of *Jones* and *Illington*.

Your Lordſhips obſerve how the Matter ſtands: Mr. *Jones* and *Illington* is a Perſon deſcribed, by the Letters of the 20th of *April*, to be in great Pain himſelf, to be in melancholy Circumſtances in other Reſpects: He appears by the Evidence at that Time to have been ill of the Gout, his Lady appears to have been ill, and dying; Mrs. *Jones* and Mr. *Illington* is a Perſon to whom a Dog was ſent, and it appears by the Evidence, that this Dog was deſign'd for the Biſhop of *Rocheſter*. Mrs. *Jones*, in one Letter 'tis ſaid, died laſt Week; and in another Letter they condole the Death of Mrs. *Illington*; and it appears the Biſhop's Lady died the Week before the 30th of *April*.

My Lords, there are other Circumſtances, which I ſhould mention, in relation to the Times when the Biſhop was in *London*, and when in the Country; which, we apprehend, is an additional Proof who was meant by the Names of *Jones* and *Illington*. Therefore in Letter *E.* 41. *a. Kelly* ſays, *Mr.* Illington *is now in Town, and preſents his kind Service to you; He is glad to hear you received his Letters by* Crow, *and wiſhes his next may be more to your Satisfaction.*

This Letter is dated the 7th of *May*; there it is ſaid Mr. *Jones* is now in Town: It appears, by the Examination of *Wood* the Coachman, that on the 7th of *May* my Lord Biſhop of *Rocheſter* was in Town.

There is another Letter dated the 7th of *May* 1722, directed to *Muſgrave*, E. 42. which I beg Leave to make ſome Obſervations on. There it is ſaid, *I had the Favour of yours, which I communicated to Mr.* Jones, *who is come to Town only for a Day.*

My Lords, this Letter ſhews, that the Perſon denoted by the Name of *Jones* was come to Town; but they object that this Letter cannot be apply'd to denote the Biſhop of *Rocheſter*, becauſe it appears by the Depoſition of *Wood*, that the Biſhop of *Rocheſter* ſtaid in Town till the 10th of *May*; ſo conſequently he did not come to Town only for a Day, and conſequently can't be the Perſon meant in that Letter.

My Lords, as to that, it appears, that the Fact concerning Mr. *Jones*, applying it to the Biſhop of *Rocheſter*, of his being come to Town, is true; as to the Biſhop's being come to Town *only* for a Day, that is not Matter of Fact, but of the Apprehenſion of the Writer: He apprehended he was only come to Town for a Day, but he might be miſtaken in that; but the Fact of his being come to Town is true, the Apprehenſion of the Writer that he came only for a Day, is falſe. But we muſt ſubmit it to your Lordſhips; the Apprehenſion of the Writer is not ſufficient to avoid the Truth of the Fact contain'd in that Letter, when we have proved that my Lord Biſhop of *Rocheſter* was in Town on the Day when Mr. *Jones* is mention'd to have been in Town in that Letter.

Another Letter dated *Thurſday* the 10th of *May*, 1722, *E.* 44. ſays, *Illington is gone to the Country, and ſent me Word he would be in Town on* Tueſday *Night, when he hath deſired to ſee me at a particular Hour, by which I conclude it may be about Buſineſs*; and the *Tueſday* following that *Thurſday* happen'd to be the 15th of *May*. Another Letter *E.* 45. and dated the 14th of *May*, 1722, ſays, *Mr.* Jones

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is ſtill in the Country, but he hath ſent me Word he will be in Town to morrow. My Lords, upon the Examination of the Coachman *Wood*, it doth appear that the Biſhop of *Rocheſter* was out of Town the 10th of *May*, out of Town the 14th of *May*, but that he came to Town the 15th of *May*, which is the Day mention'd in theſe Letters that he had promiſed to come to Town: So that here are additional Circumſtances, all agreeing to prove that the Biſhop of *Rocheſter* was denoted by the Names of *Jones* and *Illington*. My Lords, we muſt ſubmit it, that this is not probable conjectural Evidence only, as has been objected.

Theſe Letters contain Facts, and the Conſequence from them is, that *Jones* and *Illington* is the Biſhop of *Rocheſter*, in whom all theſe Facts agree. It is almoſt morally impoſſible, that all theſe Facts ſhould agree in the Caſe of any other Perſon, as they do in the Caſe of the Biſhop of *Rocheſter*.

It hath been argued, as to the Letters of the 20th of *April*, Was he the only Perſon that was in Pain and melancholy Circumſtances at that Time? A great many might be ſo. They go thro' the Particulars of his being in Town and in the Country; a great many Perſons might be in Town and in the Country on thoſe Days beſides him. It is true, it might be ſo. Was there no body whoſe Lady died the Week before the 30th of *April*, but the Biſhop of *Rocheſter*? Certainly, there are a great many to whom that Circumſtance may be applied. But, my Lords, taking the Circumſtances together, they cannot *all* of them concur in the Caſe of any other Perſon, as they do in the Caſe of my Lord Biſhop of *Rocheſter*.

It may not be improper here to take Notice of ſome other of the intercepted Letters, that have been given in Evidence to your Lordſhips, which mention the Names of *Jones* and *Illington*.

In Mr. *Kelly*'s Letters, giving an Account of his being taken up and his Examination before the Council, he takes Notice of his being examined concerning the Perſons that were meant by ſeveral fictitious Names, and, among the reſt, *Jones* and *Illington*, who, he ſays, *are chiefly ſtruck at*. This is to give an Intimation to his Correſpondents Abroad, that there had been a Diſcovery, that the fictitious Names, concerning which he had been examined, were made uſe of in their Correſpondence.

My Lords, he comes afterwards and writes a Letter, after ſuch Time as he was bail'd (he was taken the 19th of *May*, and bail'd the 7th of *June*) wherein he ſays, *it is abſolutely neceſſary now, that there ſhould be a new Book of Accounts*; ſays he, *they muſt uſe no more their preſent Book of Accounts, ſince thoſe, who have got Part, may have got the Whole.*

My Lords, we humbly ſubmit it, that he having given an Account of his being examined concerning thoſe ſeveral fictitious Names, after when he comes and ſays it is abſolutely neceſſary to have a new Book of Accounts, it is a plain owning of *Kelly* by this Letter, that the Names inquired after were the Names made uſe of in the Correſpondence, and therefore he ſays, it is neceſſary to have a new Book of Accounts, that is, other Cyphers and fictitious Names, by which to carry on their Correſpondence: He owns they have got Part, and fears they may have got the Whole.

From that Time the Names of *Jones* and *Illington* are no more met with in the Correſpondence that follows. We have gone no farther in our Evidence to fix any other Names to mean the Biſhop of *Rocheſter*, but only the Names of *Jones* and *Illington*. But there are other Names, which, in the Letters that follow, probably are deſign'd to mean the Biſhop of *Rocheſter*, but they will be out of the Caſe, becauſe we have given no Evidence concerning them; and the plain Reaſon why *Jones* and *Illington* are not made uſe of any longer, is, becauſe it appears on the Examination of Mr. *Kelly*, that thoſe Names were mentioned; therefore they were afraid, by making uſe of thoſe Names, the Correſpondence might be diſcover'd, and it might prejudice the Perſons who went by thoſe fictitious Names.

My Lords, this is the Subſtance of the Letters, writ to and from Mr. *Kelly* and his Correſpondents, concerning the Perſon that goes by the Names of *Jones* and *Illington*.

Tho' my Lord Biſhop of *Rocheſter* inſiſts, that he is not proved to be the Perſon concern'd in writing theſe Letters, and that he had no Notice of them, and therefore they ought not to be look'd upon as Evidence againſt him; my Lords, we ſubmit it to your Lordſhips, in a Correſpondence of this Nature, when we purſue Facts and Circumſtances that are ſtated and ariſe from the intercepted Letters, which when they come to be apply'd together, are a plain Indication of the Perſon that is meant by them; when theſe Circumſtances and Facts can fit none but the Biſhop of *Rocheſter*; we hope, tho' it is not legal Evidence in *Weſtminſter-Hall*, yet it is ſatisfactory Evidence to induce your Lordſhips to believe and be convinced, that no Perſon can be denoted by theſe Names but the Biſhop of *Rocheſter*. My

My Lords, this is a Matter that the Biſhop of *Rocheſter* could not, with all his Care, be aware of; he takes Care that the Letters of the 20th of *April* are in Cyphers, and not writ with his own Hand; fictitious Names are made uſe of, and he thinks he ſhall be ſheltered by this Means from being found out to be the Perſon. The other Facts could not be ſuppoſed would come out to explain the Perſon.

But, my Lords, very often there is a Providence in detecting Things of this Nature, and where the greateſt Caution and Care is uſed, Circumſtances (that human Prudence could not guard againſt) are ſo ſtrong and convincing, that they diſcover ſuch ſecret Correſpondence, and plainly prove who is the Perſon carrying it on.

Since Texts of Scripture have been cited on the other Side, my Lords, I beg leave to uſe one on this Occaſion; and that is, *Curſe not the King, no, not in thy Thought, for a Bird of the Air ſhall carry the Voice, and that which hath Wings ſhall tell the Matter.*

In theſe treaſonable Conſpiracies and Correſpondences againſt the King and Government, (notwithſtanding they are carried on ſo ſecretly, that the Conſpirators think nothing can diſcover them) there happen ſometimes, through Providence, ſuch Circumſtances which the Perſons cannot be aware of, that bring thoſe things of Darkneſs to Light; and we hope this may be an Example, that may deter any Perſon from going in the moſt ſecret and concealed Way to engage in any thing of this Nature.

My Lords, there is a Matter I ſhall beg Leave to mention to your Lordſhips, becauſe my Lord Biſhop hath inſinuated as if I made hard and harſh Application of the Letter taken upon his Servant. My Lords, he ſays that the Conſtruction I put upon that Letter was not a natural but an ill-natur'd Explication. The Letter mentions an Impeachment, and ſays the Biſhop in the Letter, *if the Impeachment cannot be ſtopt, I am Priſoner for ſome Years without Remedy.*

My Lords, I did obſerve to your Lordſhips on that Expreſſion in the Letter, that it ſeem'd to import a Senſe of my Lord Biſhop's Guilt, becauſe he ſaid he was unavoidably a Priſoner for ſome Years. My Lord Biſhop ſays, this is by no Means a natural but a forc'd and ill-natur'd Explication; for in that Place he meant no more than if an Impeachment were lodged, it would not be proſecuted, but made Uſe of only that he might be detained a Priſoner for ſome Years.

My Lords, I muſt ſubmit it to your Lordſhips, which is the moſt genuine and natural Interpretation, that which I put upon the Words, or that which my Lord Biſhop of *Rocheſter* doth; which ſo highly reflects on the Honour and Juſtice of your Lordſhips, and the Houſe of Commons.

My Lords, I ſhall beg Leave in the next Place to take Notice of the Evidence that hath been given on the behalf of my Lord Biſhop of *Rocheſter*, and to conſider, whether that is ſufficient Evidence to ſatisfy your Lordſhips of his Innocence.

My Lords, we did read the Examination of Mr. *Neynoe*, one of his Examinations, and the laſt that was taken; they on the other Side called for three other Examinations, of which the laſt Examination, which we read, was an Abſtract; they read them all, and, my Lords, the Examination which we read, was conſiſtent with three other Examinations, with relation to my Lord Biſhop of *Rocheſter*; and I muſt own that the Charge, in the Examination of *Neynoe*, upon my Lord Biſhop of *Rocheſter*, is only Hearſay from *Kelly*; *that Mr.* Kelly *did tell* Neynoe, *that the Biſhop of* Rocheſter *held Correſpondence with the Pretender and his Agents*; and that *he was employed by the Biſhop in writing for him, and carrying on the ſaid Correſpondences:* So far, my Lords, it is Hearſay, what Mr. *Kelly* told *Neynoe*. Now, as to Mr. *Kelly* himſelf, it did affect him by charging that he had confeſs'd to *Neynoe*, that he did carry on ſuch a Correſpondence; but as to my Lord Biſhop it cannot affect him but as Hearſay, and we muſt agree that if there was nothing elſe in the Caſe but this, all the Arguments made uſe of againſt ſuch Evidence would be of great Weight.

My Lords, I can't ſay that this Charge from *Neynoe*'s Examination is of Weight to charge the Biſhop of *Rocheſter*, ſo as to condemn him. My Lords, they have urged that if this Charge is not to be believed, all comes to nothing: This, ſay they, is the Foundation, and if *Neynoe*'s Examination is not ſufficient to affect the Biſhop of *Rocheſter*, then all the ſubſequent Evidence falls to the Ground.

My Lords, I beg Leave to obſerve firſt, that if we had not *Neynoe*'s Examination, the Proof againſt my Lord Biſhop of *Rocheſter* is as ſtrong without it as with

with it; it is certainly Evidence of the Conſpiracy in general, but as to the Biſhop it is only a Circumſtance to ſhew, that another Man had ſaid of the Biſhop of *Rocheſter*, that he was carrying on a Correſpondence with the Pretender, *&c.*

But, my Lords, taking the Examination of *Neynoe* out of the Caſe, and conſidering the other Facts mention'd and prov'd to your Lordſhips, there is no Occaſion of *Neynoe*'s Examination; whether *Neynoe*'s Examination be falſe or true, is not material: There is ſufficient to prove the Biſhop of *Rocheſter* guilty, for they can't deſtroy the other Facts and Circumſtances; and as long as they ſubſiſt, they prove the Biſhop of *Rocheſter* to be the Perſon concerned in carrying on this Correſpondence.

My Lords, I beg Leave to obſerve in *Neynoe*'s Examination, there is ſomething more than Hearſay, there is a Fact in it, and we are able to ſupport that Fact by other Evidence. *Neynoe* ſays, that he hath gone ſeveral Times with *Kelly* to the Biſhop of *Rocheſter*'s, and hath ſtaid a conſiderable Time for him. My Lords, we ſhall prove by another Witneſs, that *Neynoe* about that Time came ſeveral Times to a Houſe, where he ſaid he waited for a Friend of his that was gone to the Biſhop of *Rocheſter*'s, and he ſtaid and waited for him three or four Times, for an Hour, and an Hour and an Half together. This will confirm what *Neynoe* ſaid in that reſpect to be true.

They ſay there are ſeveral Improbabilities contained in *Neynoe*'s Examination, and Inconſiſtencies; as to the Improbabilities, ſome of them are mentioned as if there was great Weight in them. That ſo much inſiſted on by my Lord Biſhop himſelf, is, that *Neynoe* ſays, he was employed to write Memorials, and the laſt he wrote was in *December*, and that was to deſire the Regent of *France* to furniſh a Body of 5000 Men, to come and invade theſe Kingdoms: The Obſervation made by the Biſhop of *Rocheſter* is, where are theſe Memorials? Why did he not keep Copies of them? For he was at that Time concerned in a Deſign to ſerve himſelf one way or other; if he deſigned to betray thoſe Perſons he correſponded with, it would have been of Service to have kept thoſe Memorials, to have delivered them to the Government. If on the other Side he had kept to his Friends, it would have been proper to have kept them, in order to create a Confidence in him, and to ſhew the Part he had in the Conſpiracy. Theſe Obſervations can have no Weight, when your Lordſhips come to conſider this was in *December*, and there was never any Application by him to make any Diſcovery of this Conſpiracy 'till *July* following. As to the Service it might be to keep them with reſpect to his Party, my Lords, we humbly apprehend that, conſidering him as a Man engaged in a Correſpondence of this kind, a Memorial of this Nature drawn up by him can be of no Uſe, but to detect himſelf and injure his Party, if he happens to be taken up, and ſuch a Memorial found upon him; therefore it was neceſſary to deſtroy it.

My Lords, there is another thing mentioned with relation to *Watſon*, and the Improbability of his being the Earl Mariſhal; but *Neynoe* does not ſay that he was the Earl Mariſhal, but ſays, there was one *Henry Watſon*, which he took to be a fictitious Name, and does not know who he really was, but he took him to be the Earl Mariſhal, and he gave him the Heads to draw up theſe Memorials.

My Lords, we apprehend it is not material, who *Watſon* was; he is a Perſon that employed *Neynoe* to write theſe Memorials, and he might be the Earl Mariſhal; *Neynoe* ſays he took him to be ſo. Say they, if it was the Earl Mariſhal, why ſhould he lie ſeveral Nights with *Neynoe*, this, ſay they, is very improbable. If it was him, he was to conceal himſelf, and take the fitteſt Place for that Purpoſe; therefore converſing with *Neynoe*, and not owning himſelf who he was, is not improbable. It is probable he would not diſcover himſelf to every Perſon, and tho' *Neynoe* was a Perſon engaged in the Conſpiracy, if *Neynoe* did not know him to be the Earl Mariſhal, it might not be proper for him to diſcover himſelf to *Neynoe*.

My Lords, I think theſe are the principal Things objected; there are ſome other little Matters, but I think dwelling on ſuch Objections as theſe, is but miſpending your Lordſhip's Time.

My Lords, that which we humbly inſiſt upon is, whether *Neynoe*'s Examination is an Examination to be credited or not credited. We agree it is only Hearſay, as to the Biſhop of *Rocheſter*, and if we had not other Matter, it would not be ſufficient; ſo that we humbly apprehend it's being true or falſe won't affect this Caſe. If your Lordſhips are of Opinion 'tis falſe, there is ſufficient Evidence againſt the Biſhop of *Rocheſter* without it.

My

My Lords, in the next Place they have produced in Evidence ſeveral Perſons that come and give your Lordſhips an Account of *Neynoe*'s Confeſſions to them. There is one Mr. *Bingley*, Mr. *Steward*, and Mr. *Skeene*, and two other Perſons, that give an Account of what Mr. *Skeene* and *Steward* had told them Mr. *Neynoe* had ſaid.

Bingley by his Evidence would have it believed, that *Neynoe* had told him, he was employed by ſome Perſon in Power, to fix ſeveral things upon ſeveral Perſons that they were innocent of; that he had ſaid ſeveral things that were falſe, and had impoſed upon a great Man he had made Application to, and had got great Sums of Money out of him.

My Lords, I don't know how far they would carry this, for by what hath been inſiſted upon by my Lord Biſhop of *Rocheſter*, and his Counſel, it ſhould ſeem as if they were labouring to ſhew from theſe Perſons, that they have call'd to be examin'd, that all the Letters relating to this Correſpondence, the Letters of the 20th of *April*, and ſubſequent Letters, that relate to the particular Facts that denote *Jones* and *Illington* to be my Lord Biſhop of *Rocheſter*, were contrived between *Neynoe* and ſome other Perſons, in order to charge my Lord Biſhop of *Rocheſter* with being concern'd in this Conſpiracy. This ſeems to be what they are labouring at by this Evidence.

My Lords, as to *Neynoe*'s being a Perſon employ'd in writing theſe Letters of the 20th of *April*, or any ſubſequent Letters, in Manner as is ſuggeſted, we ſhall ſhew your Lordſhips that it's impoſſible to be true; we ſhall ſhew that the Letters of the 20th of *April*, and all the other Letters that mention the Facts which denote the Biſhop of *Rocheſter*, were all intercepted and in the Hands of the Government, before ſuch Time as it was known among the Miniſtry that there was ſuch a Perſon as *Neynoe:* For *Neynoe* made Application to the Honourable Perſon mentioned by their Witneſſes, ſubſequent to all this Correſpondence, when theſe Letters were in the Hands of the Government, as a Perſon that could make Diſcoveries to the Government. Therefore that Inſinuation muſt vaniſh, that *Neynoe* was employ'd to forge Letters, which contain Facts under the Names of *Jones* and *Illington*, to charge the Biſhop of *Rocheſter*; and that even thoſe Letters of the 20th of *April* were forged by him.

My Lords, we ſhall go into the Character of Mr. *Bingley*, who hath at your Lordſhips Bar owned, that he hath been whipt, pilloried, and impriſoned; and as he hath taken his Degrees, as he owned at your Lordſhips Bar, conſequently he hath taken the Oaths.

As to the Character of Mr. *Skeene*, he hath likewiſe been produced as a Witneſs, and he carries his Evidence farther than the Evidence of Mr. *Bingley*; for whereas Mr. *Bingley* ſays, that *Neynoe* confeſſed he had impoſed upon that Honourable Perſon, and had mention'd things that were falſe, yet he could not ſay that after the Time of his Examinations, after *Neynoe* was brought from *Dover* to Town, he had confeſs'd to him that what he had ſaid on thoſe Examinations was falſe: But *Skeene* ſays, that after his Examinations he own'd that they were falſe. The laſt Examination was the 27th of *September*, and he was drown'd that Night; but as to the Examinations before the 27th of *September*, and out of which that is collected, Mr. *Skeene* ſays, *Neynoe* ſaid to him, that they were falſe.

My Lords, as to Mr. *Skeene*, we ſhall ſhew what ſort of a Man he is, a Man attainted of High Treaſon; and though he is pardoned, as to his having his Life and Liberty given him, he is in all reſpects an attainted Perſon: He was try'd and condemned in the County of *Surrey*, for being concerned in the *Preſton* Rebellion, and conſequently a Man of no Credit. And as to what he and *Steward* ſwear, relating to a Converſation with *Neynoe*, when in Cuſtody, we ſhall ſhew they never were together after the firſt Night, when they ſup'd together. He was aſked, whether it was the firſt Night that he had this Converſation with *Neynoe*, and he did not pretend he had any Converſation of this Nature with *Neynoe* the firſt Night; and if it was not the firſt Night, we ſhall ſhew it could not be afterwards, for *Neynoe* was kept in a Room by himſelf, *Skeene* and *Steward* by themſelves in a Room underneath; and therefore this ſeems to be a Story contrived between *Skeene* and *Steward*.

We ſhall ſhew it could not be poſſible for them to converſe together, for *Skeene* and *Steward* were locked up in their Room; *Neynoe* was lock'd up in his Room ſeparate and apart from theirs; ſo that they could never have Correſpondence with him, nor come near him.

Another thing is ſworn by one of them, about a Meſſage ſent to him by *Neynoe*, and a Paper, while they were in Cuſtody of the Meſſenger; and he ſays,

this Paper was brought to him by the Meſſenger's Maid from *Neynoe*, and that this Paper contain'd a Juſtification of my Lord *Orrery*, expreſſing that he knew nothing of my Lord *Orrery*, but what he had ſaid of him was utterly falſe; that the Meſſenger finding he had ſome Paper, he, to conceal this Paper, burnt it: But that the Maid came to him with ſuch a Meſſage or Paper is falſe, the Maid never did, nor did the Meſſenger know of the Paper, as we ſhall prove to your Lordſhips.

My Lords, when we have proved this, we humbly apprehend we have taken off any Credit that could be given to what theſe People have ſaid, if they have ſaid any thing material. My Lords, before I leave this Head, I beg leave to obſerve another thing as to *Skeene*. He, upon his Examination concerning a Diſcourſe with *Pancier*, denies it intirely; but ſays, that what *Pancier* hath inform'd in relation to him, is falſe. We ſhall call *Pancier*, who will inform your Lordſhips, that *Skeene* hath own'd that he was privy to this Conſpiracy, and knew who were concern'd in it.

I own there are ſeveral noble Perſons named to be concern'd, that there is no Reaſon to ſay, from what *Skeene* may have ſaid of them, that they are guilty: But ſuch as he may have uſed the Names of great Perſons deſignedly to keep up the Spirit of their Party, by telling them ſuch and ſuch Perſons were concerned; and if there is no other Evidence but what ſuch a Perſon hath ſaid, the noble Perſons mentioned will not be affected by it.

My Lords, there is another Head I ſhall beg leave to mention, and what they have inſiſted upon under this Suppoſition; that they would have it taken that there was a Deſign to forge Letters, in order to charge my Lord Biſhop of *Rocheſter*, and ſeveral other Perſons. Say they, it was eaſy to get Information of ſuch Circumſtances relating to the Biſhop and his Family, as are mentioned in the intercepted Letters, and then to write ſuch Letters with a Deſign falſely to charge the Biſhop with having been concerned in carrying on a treaſonable Correſpondence. Your Lordſhips will pleaſe to conſider who this Charge muſt fall upon of forging the Letters of the 20th of *April*, or the Letters that ſhew *Jones* and *Illington* to be the Biſhop of *Rocheſter*.

My Lords, we have proved them all to be Mr. *Kelly*'s own Hand-writing, or Letters that have come in Anſwer to them. They have objected we have not given ſufficient Proof of *Kelly*'s Hand; ſay they, it is proved by Clerks of the Poſt-Office, who never had compared one original Letter with another, but at laſt they ſtop an original Letter dated the 20th of *Auguſt*, after the Correſpondence had been carried on ſeveral Months; and then come and ſwear that the original Letters, that were forwarded, were of the ſame Hand-writing with that of the 20th of *Auguſt*. Can this be looked upon as ſufficient Proof? But we ſubmit it, their Evidence is much ſtronger than if they had only compared one Letter with another; for they not only had theſe Letters come every Week, but they were employ'd every Time theſe Letters came, to copy them; ſo that the Hand-writing of theſe Letters muſt by the conſtant ſtopping of theſe Letters, and their copying of them, be ſo imprinted on their Memory, that they are much better Judges of the Hand than if they had two of theſe Letters to have only compared them together: And the Hand-writing was ſo well known to them, that they could, as they have inform'd your Lordſhips, when any of theſe Letters came, diſtinguiſh them by the Hand-writing of the Superſcriptions, before they had open'd them, and they never were miſtaken: And this we humbly apprehend is as ſatisfactory an Evidence as can be given, that theſe Letters were the Hand-writing of Mr. *Kelly*, provided the Letter of the 20th of *Auguſt*, which I ſhall take Notice of by and by, is ſufficiently proved to be of his Hand-writing.

Taking it then, my Lords, that theſe Letters are the Hand-writing of Mr. *Kelly*, and of his Correſpondents in anſwer to them, I don't find that my Lord Biſhop of *Rocheſter* hath charged Mr. *Kelly* with having any Malice to him. And if he had no Malice to the Biſhop of *Rocheſter*, what ſhould induce him to write thoſe Letters, on Purpoſe to charge the Biſhop of *Rocheſter* with being concerned in this Conſpiracy?

My Lords, we humbly apprehend the Pretence of theſe Letters being forg'd muſt inſinuate, that *Kelly*, a vile Fellow, intending to charge the Biſhop of *Rocheſter* with being concerned in this Conſpiracy, and make him liable to forfeit every thing that was dear to him; hath contrived Letters containing Circumſtances, in order to fix him to be the Perſon denoted by the Names of *Jones* and *Illington*; he hath written Letters, and by Combination received others in Anſwer to them;

them, for this Purpoſe; and by theſe wicked and malicious Practices, hath furniſhed this Evidence againſt the Biſhop, who is an innocent Man.

My Lords, this is the Subſtance of the Defence on this Head, and whether your Lordſhips will believe this, we muſt ſubmit to your Lordſhips. Your Lordſhips have had *Kelly* before you, and by his Behaviour have had no Reaſon to think that he had any Malice againſt my Lord Biſhop of *Rocheſter*, or any Deſign or Intention to prejudice him.

My Lords, the next Part of the Evidence I ſhall beg Leave to obſerve, is a Part very conſiderable, and is ſo far from being a Defence, that the Defence attempted hath confirm'd and ſtrengthen'd the Evidence againſt my Lord Biſhop of *Rocheſter*; that is, with relation to the Letter taken among my Lord Biſhop's Papers, directed to *Dubois*; a Letter, which they obſerve, don't contain any Treaſon, or is of any treaſonable Import; but it ſeems to be a Letter of Indifference, and I believe, as ſuch, it was not taken Care to be deſtroy'd, as it would have been, had there been any Apprehenſion that Uſe would have been made of it as now againſt the Biſhop of *Rocheſter*.

My Lords, the Uſe we make of it is, to ſhew that Mr. *Johnſon*, or Mr. *Kelly*, was a Perſon employed by my Lord Biſhop of *Rocheſter* in writing Letters for him. My Lords, your Lordſhips will obſerve by the Letter, he ſays, *I have heard nothing from you ſince the Letter I had about two Months ago by Mr.* Johnſon, *to which I immediately in his Hand returned my Anſwer.*

My Lords, if this is the Biſhop of *Rocheſter*'s Letter, either in his own Hand, or his Letter writ by another Perſon, it plainly proves what we infer from it, that *Johnſon*, i. e. *Kelly*, writ for the Biſhop. Your Lordſhips will obſerve, it is a Letter writ in a Hand which no Man writes, a ſtiff Hand almoſt like Print; and it is plain that it is writ to diſguiſe the Hand of the *Writer*, whoever he was. At the latter End of the Letter, when the Perſon that writ it comes to be tired and off of his Guard, there are ſeveral Letters which compared with the writing of my Lord Biſhop of *Rocheſter*, and what is own'd to be his, appear to be his writing. In the Date of the Letter, which is *December*, the D you frequently find in the Biſhop's Hand-writing; your Lordſhips obſerve the Letter E that frequently occurs in the Biſhop's writing; and your Lordſhips by comparing that with the Letter produced, will find that they exactly agree.

Whether or no your Lordſhips won't think it on thoſe Circumſtances, to be the writing of my Lord Biſhop of *Rocheſter* in a diſguiſed Hand, we muſt ſubmit to your Lordſhips. But, my Lords, ſuppoſe it was not his Hand-writing, here is Evidence that it was his Letter; and that is evident, becauſe it is under his Seal, it is ſealed with his own Seal, a Seal that he had in his Cuſtody, and made Uſe of no longer ago than the 26th of *February* laſt: I think that is the Day a Letter was taken from his Servant. That we humbly apprehend, my Lords, will plainly ſhew it is the Biſhop's Letter, becauſe it was ſealed with his Seal, and the ſame Seal is made Uſe of by the Biſhop on the Letter that was taken upon his Servant in *February* laſt.

My Lords, this Matter hath been controverted by my Lord Biſhop. He hath call'd Engravers, who believe Seals may be counterfeited, and Impreſſions may be taken off the Wax, and another Impreſſion made, ſo as to make it difficult to know which is which. They were a little looſe in anſwering the Queſtion, Whether or no, if the Seal, from whence the Impreſſion was to be taken, was broken in the Middle, it could be done. But one ſaid, the Seal might be mended, and it might paſs unobſerved; but I find it is extremely difficult. But they did ſay, Seals may be ſo counterfeited, that it may be difficult to diſcover one from the other. My Lords, this is to inſinuate, that after ſuch Time as the Letter was taken upon my Lord Biſhop's Servant, the Perſon in whoſe Cuſtody this other Letter of *Dubois* was (which is proved to have been taken the 24th of *Aug.* amongſt the Biſhop's Papers) hath cauſed an Impreſſion to be taken off the Seal with which the Letter to *Dubois* was ſeal'd, (the Wax broken in two as it was) in order to fix it upon the Letter that was taken upon my Lord Biſhop's Servant, ſo as to prove the Letter to *Dubois* to be the Biſhop's Letter. Who is this to be fixed upon? *Neynoe* was gone; I don't know, unleſs upon the Committee of the Houſe of Commons, for the Biſhop's Letter was taken on his Servant the 26th of *February*, the Committee of the Houſe of Commons made their Report on the 1ſt of *March*,

and the Letter to *Dubois* had long before the 26th of *February* been in Cuſtody of that Committee. And yet while this Letter is in Cuſtody of a Committee of the Houſe of Commons, they will have it here is an Impreſſion taken off a broken Seal, and put on this other Letter, in order to ſhew that theſe are Letters of the ſame Perſon. Who can believe this to be the Caſe?

An Obſervation hath been made, that truly the Committee of the Houſe of Commons have not made any Obſervation of this Kind, with relation to this Letter to *Dubois*, that it is the Biſhop's Letter, Which is true; for they had not this Matter relating to the Identity of the Seals, under their Conſideration; but this is a new Diſcovery made ſince: And therefore, my Lords, they apprehended that this was a Letter directed to the Biſhop by the Name of *Dubois*, it being found amongſt his Papers; and nothing to the contrary did appear, till after they had made their Report.

My Lords, there are other Things your Lordſhips would have expected to have had an Account of in Anſwer to this Evidence. Here is a Letter found among my Lord Biſhop's Papers, conſequently ſo far we apprehend that this Evidence is a legal Evidence againſt the Biſhop, as being a Letter found in his Cuſtody; this Letter is directed to *Dubois*, and mentions the Hand of *Johnſon*. Doth my Lord Biſhop of *Rocheſter* give any Account who *Dubois* is? who this *Johnſon* is? how this Letter came there? No, my Lords, none at all. Doth his Lordſhip give you any Account of the Seal? and hath his Lordſhip ſaid that the Seal, that ſealed the Letter taken on his Servant, he hath not? or that the Letter was not ſealed with his Seal, or that he did not ſeal it himſelf? His Lordſhip did not ſay one Word to that Purpoſe, or make any Denial of the Matter, nor give your Lordſhips any Account who *Dubois* and *Johnſon* were; nothing at all, but hath *left it to your Lordſhips* on that Foot; That the Letter to *Dubois* had an Impreſſion taken off, after it was *in the Cuſtody of the* Committee of the Houſe of Commons, and that Impreſſion made uſe of on the other Letter; and that this is another Part of the Contrivance in order to charge my Lord Biſhop of *Rocheſter* with being concern'd in this Conſpiracy.

My Lords, as to the Seals being the ſame on the two Letters, we humbly apprehend, the Evidence given on the other Side hath ſtrengthened ours. We have produced two Engravers, one of them they own to be the top Engraver of *England*, Mr. *Chriſtian*; he gave your Lordſhips an Account, that he verily believed theſe two Impreſſions to be taken off from the ſame Seal. Mr. *Rollus* ſaid the ſame thing, and that he had uſed the Art long, and could judge. They made no Endeavours on the other Side to try the Skill of Mr. *Chriſtian*; but as to Mr. *Rollus*, they hoped they ſhould be able to puzzle him; and therefore have produced ſix ſeveral Impreſſions made on Wax by Seals to try his Art; and after he had look'd upon them, he gives you ſuch an Account, that I believe your Lordſhips are ſatisfied that he is a Man of Skill and Art, and that, if theſe Impreſſions had been taken off, as they would inſinuate they were, he muſt have diſcover'd it.

My Lords, here is an Artiſt brought to make this Experiment on *Rollus*, to try his Skill; yet notwithſtanding all the Art hath been made uſe of in the Caſe, that could be, the Man was able not only to diſtinguiſh how many Seals the Impreſſions were made with, but alſo to give an Account that they were caſt Seals, and not grav'd Seals, that made thoſe Impreſſions.

This, my Lords, will have ſuch a Weight with your Lordſhips, that we hope your Lordſhips will believe his Evidence is true; and if it is true, what Anſwer hath been given it your Lordſhips have heard. Whether therefore any ſatisfactory Anſwer hath been given to an Evidence ſo ſtrong and convincing of *Johnſon*'s being employ'd in writing Letters for the Biſhop of *Rocheſter*, we muſt ſubmit to your Lordſhips.

My Lords, the next Evidence they went upon was in relation to the Dog. Say they, we will ſhew that this Dog was not for the Biſhop of *Rocheſter*, or any other Perſon but Mrs. *Barnes*. As to that, my Lords, I beg leave to remind your Lordſhips of the Evidence given by Mrs. *Barnes*, that Mr. *Kelly* told her it was for the Biſhop of *Rocheſter*. It is a little improbable, if the Dog had been for Mrs. *Barnes*, that he ſhould come and deliver it to her, and tell her 'tis for the Biſhop of *Rocheſter*. But it appears by Mrs. *Barnes*, that another Dog was deſigned for her, and that this Dog was for the Biſhop of *Rocheſter*. They have read in Evidence a Certificate, ſign'd by Mr. *Birmingham*, and likewiſe an Affidavit, that there was in the Month of *March* a Dog deliver'd to *Kelly* in *France* for Mrs. *Barnes*. That, my Lords, muſt be another Dog, and not this, which we ſay was for the

Biſhop

Biſhop of *Rocheſter*; for this was not deliver'd to Mr. *Kelly* in *France*, but was ſent over to him after he was in *England*, as appears by the Letters; and after he had receiv'd it, he writes, that *he would inform Mr.* Jones *ſoon of it, to whom any thing from that Quarter would be very acceptable.* So that, my Lords, if there was another Dog, and by Mr. *Kelly* deſign'd for Mrs. *Barnes*, we humbly apprehend it cannot be applied to this; for this Dog was deſign'd for Mr. *Jones*, and Mrs. *Barnes* ſays that is the Biſhop of *Rocheſter*.

My Lords, the next Evidence given by them is in relation to the Letters of the 20th of *April*. They have endeavour'd to prove that, as to my Lord Biſhop of *Rocheſter*, it is impoſſible that theſe Letters could be written or dictated by him. He came to Town the 11th, and went to *Bromley* again the 12th of *April*; he had a Fit of the Gout ſoon after; had Servants that conſtantly attended him, more than one; and theſe Servants give an Account, that no Perſon whatſoever came near him, or could be employ'd by him to write thoſe Letters.

My Lords, I beg Leave to obſerve, *firſt*, That as to the applying their Evidence to the Writing of thoſe Letters on the 20th of *April*, it is very poſſible that the Letters were writ on another Day than when they bear Date; Therefore if they prove, that it was impoſſible that theſe Letters ſhould be writ or dictated by the Biſhop of *Rocheſter* on the Day they bear Date, yet they might be writ on another Day, and it is very probable they were.

Your Lordſhips will obſerve, that theſe Letters are in Cyphers; and, I believe, where a Perſon dictates a Letter to another, he doth not reduce the Letter into Cyphers as it is dictated, but he firſt writes it out in Words at Length, and afterwards puts it into Cyphers, and when it is proper to ſend it, then is the Time to date it; and if it be left with the Perſon that puts it into Cyphers to ſend, as probably it was in this Caſe, it is left to him to date it when *he pleaſeth: So that* if they ſhould have ſhewn, that upon the 20th of *April* the Biſhop was incapable of dictating or writing, it is no concluſive Anſwer to the Charge againſt the Biſhop as to theſe Letters.

Your Lordſhips will pleaſe to obſerve, that upon the 11th of *April* the Biſhop of *Rocheſter* came to Town, on the 12th he went into the Country; notwithſtanding what they have attempted to prove as to the Times that *Kelly* was in Town, and the Biſhop was in the Country, yet upon the 11th and 12th they were both in Town; for *Kelly* came to Town from *France* the 11th, and the Biſhop came to Town the 11th from *Bromley*.

When the Servants came to be examin'd, what Time of the Day the Biſhop came to Town on the 11th, they could not give any Account of that; when they were aſked, what Time of Day it was when he went out of Town on the 12th, they could give no Account of that.

There hath been no Account given to your Lordſhips, who was with the Biſhop of *Rocheſter* the 11th and 12th, when he was in Town, or where my Lord Biſhop was at that Time: So that, my Lords, it is poſſible from theſe Circumſtances, that theſe Letters might be writ when the Biſhop was in Town and *Kelly* was in Town.

But ſuppoſe it ſhould not be ſo; the Queſtion is, whether they could not be writ at *Bromley*. On the 12th of *April* Mr. *Kelly* was at Mrs. *Barnes*'s, he did not lie at Home that Night; on the 13th he did not lie at Home; on the 14th he came and went to his old Lodgings at Mrs. *Kilburne*'s. Theſe two Nights it doth not appear where he was; he might have been at *Bromley*, it is but an Hour's Ride. As to the Servants, ſay they, they ſhould have remembred his ſetting up his Horſe;—He might ſet up his Horſe at an Inn, and go privately to my Lord Biſhop.

Notwithſtanding my Lord Biſhop was ill, and tho' he ſhould have proved to your Lordſhips Satisfaction, that after he was ſo, he did not nor could admit of Company, yet we ſubmit it to your Lordſhips that it is no Anſwer; for he was not very bad till he had been in the Country two or three Days, and theſe Letters might be dictated or written in thoſe two or three Days before he was ſo ill.

My Lords, I beg Leave to obſerve, what the Servants have ſworn. Here is *Grant*, that is my Lord's Butler, he ſays, that my Lord Biſhop went the 12th of *April* to *Bromley*, and he attended him there till the 21ſt, and on the 21ſt he was ſent to Town upon ſome Matters relating to the *Weſtminſter*-Election; and another Servant about him gives an Account, that two or three Days after my Lord Biſhop came down, he was taken ſo ill in his Hands and Feet, as not to be able to help himſelf———. Theſe are two or

three

three Days beyond the Time that *Kelly* was out of his Lodging, which was the 12th and 13th, (and theſe two or three Days muſt be the 14th and 15th) it may be my Lord Biſhop was ſo diſabled indeed as he ſays: he ſays he is almoſt certain that no Stranger was with the Biſhop; but he ſays the Apothecary or the Miniſter might be with him in his Illneſs, tho he did not ſee them himſelf. If it is poſſible for the Apothecary and the Miniſter to be with him, and he not ſee them, why is it not as poſſible that Mr. *Kelly* might be there, and he not ſee him there?

The next Witneſs that is called, only ſpeaks to the 18th and 19th; when *Grant* came to the Election another Servant was ſent for, and he went, and he ſays my Lord Biſhop was very ill. *Samuel Steele* gives an Account of my Lord Biſhop's Illneſs, and his attending him.

My Lords, they have brought all the Servants of the Houſe, the very Stable-Boy, to prove that my Lord Biſhop could not ſee any Body without their Knowledge; even the Nurſe that attended his Lady when ſhe was dying. The Servants that were waiting upon his Lady ſwear, That it was impoſſible any body could come to my Lord Biſhop, and they not know it; and they are as poſitive, in relation to any body's coming to my Lord Biſhop, as the Servants that immediately attended him.

But, my Lords, there is a Matter, which we ſhall offer in Evidence, that entirely deſtroys this Evidence of my Lord Biſhop's being ſo ill, that he could not move Hand or Foot, and of his not being in a Capacity of dictating Letters: that he did actually ſend a Letter the 21ſt of *April* to a Perſon in Town; and this very *Grant*, that hath given this Account to your Lordſhips, brought up the Letter to Town on the 21ſt of *April*. We have this to give your Lordſhips in Evidence; *then what is the Evidence of all thoſe Servants, who ſwear that it is impoſſible theſe Letters ſhould be writ on the 20th of April*, and that no body was admitted to come to him in order to write theſe Letters?

My Lords, as to the Evidence that hath been given, in relation to *Kelly*'s Hand-writing, they have called Witneſſes to diſprove the Evidence on our Side, who, looking upon the Letter of the 20th of *Auguſt*, ſwear they do not believe it to be *Kelly*'s Hand-writing. Our Witneſſes do believe it; their Witneſſes do not believe it, to be his Hand-writing, and ſay that it is not like it.

There are ſeveral Letters ſhown them, tho in a leſs Hand, that are agreed to be *Kelly*'s Hand-writing; and your Lordſhips may judge, by looking on them, whether they are not of the ſame Hand with the Letter of the 20th of *Auguſt*; tho the Character is ſomething leſs, we humbly apprehend they will appear ſo to be. Beſides, there are thoſe Circumſtances relating to the Hand-writing of Mr. *Kelly*, that put it beyond all Diſpute that it is his Hand, and that is the Anſwers he hath received to theſe Letters which we charge to be written by him. We have traced him from Place to Place, where the Letters that came in anſwer to his Letters, were directed; to Mr. *Andrews* at the *Dog* and *Duck*, there *Kelly* employ'd a Perſon to take them up, and they were deliver'd to him; and at *Burton*'s Coffee-Houſe *Kelly* took up the Letters that were directed thither, in anſwer to thoſe Letters that were of his Hand-writing: So there is not only the Evidence of Witneſſes, that knew his Hand, and believe it to be his Hand, but here is the Anſwers to them actually taken up by *Kelly* himſelf: and that we humbly apprehend is ſo ſtrong an Evidence, joined with the other, that, when one or two Witneſſes come and ſay they do not believe it to be his Hand-writing, their Teſtimony ſhall not overthrow it.

My Lords, there is another Piece of Evidence given by them, relating to the Letters of the 20th of *April*, which were incloſed in a Packet ſent to *Bologne*; the Packet is directed to Mr. *Alexander Gordon* Banker, at *Bologne*; they have produced a Certificate from *Bologne* upon Oath, wherein it is ſaid, that he is no Banker, and denies that he received any Packet from *Kelly*, or that he knew him: This is a Certificate, and proved by a Perſon who believes it to be ſo. Your Lordſhips will pleaſe to obſerve what this Paper is, and that it is brought here by a Perſon that knows nothing of it's being ſworn, but ſays, he is uſed to Tranſactions of this kind, and he believes it to be a Certificate from *Bologne*.

My Lords, we ſhall produce a Gentleman, who was at *Bologne* at the time that the printed Report and Appendix of the Houſe of Commons came there, and he was at Mr. *Gordon*'s Houſe, when they were diſcourſing about this Matter;

ter; and what they then ſaid, we humbly ſubmit will be believed; for what they then ſaid was ſpoken as of an indifferent thing, and they did not then ſee it could be of any Conſequence to diſguiſe the Truth. Mr. *William Gordon* the Father ſaid, that he was at *Paris*, when this Packet is ſuppoſed to have come; but Mr. *Alexander Gordon* the Son, own'd that he was at Home, and that this Packet came to him, but, ſaid he, what was in it I know not, but I delivered it as is mentioned in the *Appendix*.

My Lords, there is another Piece of Evidence they have given, with relation to *James Talbot*, to whom the Packet was delivered at *Bologne*. Here is a Witneſs produced to prove that he was in Town the 29th of *April* 1722. and he could not be miſtaken, becauſe he had paid him Money, and he had entred it in his Book. The Evidence goes no farther than to prove, that one *James Talbot*, that was a tall black Man, was then in Town; but it doth not appear that this was the Perſon mentioned to have taken this Packet at *Bologne*, and carry'd it to *Paris*; ſo that their Proof, as to this Matter, is inſufficient.

But we ſhall ſhew your Lordſhips, from an Account we have here from Mr. *Crawford*, his Majeſty's Reſident at *Paris*, that this *James Talbot* came to *Paris* that very Day, as he is mentioned to have brought thoſe Letters to *Paris*, and was actually there at that time; and that we humbly apprehend will be a full Anſwer to them, and take away any ground of Suppoſition, that the Evidence they have given concerning *James Talbot*, can be apply'd to that *James Talbot* who received the Packet at *Bologne*.

As to the Evidence relating to Mr. *Kelly*'s being in Town the 20th of *April*, we humbly apprehend from what hath been ſaid, it is not material whether he was there or not; but they have not proved it, for Mrs. *Kilburne* and her Maid, the two Witneſſes produced by them for this Purpoſe, ſay, *that he came to Mrs. Kilburne*'s Houſe the latter end of *April*, they believe the 20th, but they are not poſitive as to the Day. If he had been at Mrs. *Kilburne*'s the 20th of *April*, it is no Anſwer at all to our Evidence, and the ſtrong Circumſtances there are to induce a Belief, that the Letters might be dated at another time than really they were written.

My Lords, another Evidence is Mr. *Pope*, a Gentleman of Learning, with whom my Lord Biſhop of *Rocheſter* uſed to converſe; and he gives you an Account that he knew nothing of this Conſpiracy, that the Biſhop never open'd his Mouth to him about it, nor acquainted him with it, that he was frequently with him, and their Diſcourſe was only about Matters of Literature.

No doubt my Lord Biſhop hath converſed with Perſons on different Subjects, to whom he would communicate nothing of an Affair of this Nature.

My Lords, upon the whole Matter we muſt ſubmit it to your Lordſhips, whether we have not made out the Charge againſt my Lord Biſhop of *Rocheſter* to your Lordſhips Satisfaction, if not by legal Evidence, yet by Evidence that will ſatisfy and convince any Perſon that will conſider it.

My Lords, a great deal of Regard is due to the Character and Function of the Reverend Prelate at the Bar; but if my Lord Biſhop of *Rocheſter* hath departed from his Character and Function, and hath gone and engaged in a traiterous Conſpiracy, and been guilty of Treaſon towards his King, and Perjury towards his God, we humbly apprehend, if this be proved, that his Character and Function are ſo far from being a Mitigation, that they are a great Aggravation of his Crime. We ſhall ſubmit it to your Lordſhips to do, what your Lordſhips think is conſiſtent with Juſtice and Equity.

Mr. *Wearg*'s REPLY to the DEFENCE made by the late Biſhop of *Rocheſter*, and his Counſel.

MY LORDS,

IT muſt be admitted, that the Reverend Prelate at the Bar, has made his Defence with the utmoſt force and beauty of Eloquence.

Was I capable of anſwering it in the like manner, which I own I am not, yet I ſhould not think my ſelf at liberty to do it, under the preſent Circumſtances.

For, tho it may be excuſable, in a Perſon upon his Defence, to make uſe of that powerful Inſtrument of Error and Deceit, which always impoſes upon the Reaſon, and miſguides the Judgment in proportion as it affects the Paſſions; yet, I can't think the ſame Methods juſtifiable in a Perſon employ'd to carry on the Proſecution.

I ſhall therefore examine the Force of what has been offer'd on behalf of the Reverend Prelate, ſtripp'd of the Ornaments and Colours of Rhetorick.

I ſhall, in the firſt place, conſider that Catalogue of Hardſhips, which his Lordſhip has complain'd of.

1. The firſt Complaint was that of Severities and Indignities offer'd him during his Confinement; but the ſubject of this Complaint not ariſing from any of the Proceedings before your Lordſhips, I can give it no other anſwer, than by ſaying, that I am very credibly inform'd 'tis a Complaint without foundation.

2. Reading Extracts of Letters was the next Hardſhip complain'd of by his Lordſhip, and repreſented as if they were read as Evidence againſt him; when it was declared by the Counſel for the Bill, that they were only read upon the general part of the Bill, and did not affect his Lordſhip.

3. The third Hardſhip was excuſing the Decypherers from anſwering ſuch Queſtions propoſed by his Lordſhip, as tended to a Diſcovery of their Art; That is, in other words, refuſing to do an act, which muſt prejudice another Perſon, and could be of no ſervice to his Lordſhip; for the Truth of what they teſtified, depended upon the Skill and Integrity of the Decypherers, and not upon the Method of coming at that Skill, which they could not diſcloſe in ſo publick a manner, without doing a manifeſt Prejudice to themſelves, which no Witneſs is ever compell'd to do.

4. The next Hardſhip is of the like nature, the not ſuffering the Clerks of the Poſt-Office to be examin'd, as to the Method and Authority by which they open'd Letters; By which they might have been ſubjected to the ſevere Penalties of the Satute 9 *Annæ*, if they had not exactly purſued the Methods preſcribed by that Statute. But his Lordſhip's Innocence could not poſſibly have been manifeſted by it; for are the Letters leſs criminal, if the Perſon who ſtopped them did not punctually purſue the Directions of that Statute? It would be thought a ſtrange Defence in a common Offender, if inſtead of proving his Innocence at his Tryal, he ſhould object that he was taken without a proper Warrant; which, if true, don't make him the leſs criminal.

5. The fifth Hardſhip was refuſing to let Mr. *Lewis* declare any thing that came to his knowledge by his being employ'd in the Secretaries Office ſome years ago: This

This Hardſhip could be added only to fill up the Catalogue of Complaints, ſince notwithſtanding your Lordſhips Order Mr. *Lewis* did declare what he was call'd for, tho he afterwards own'd that he came to the knowledge of it by being employ'd in that Office.

6. The ſixth Hardſhip was in reading an Examination not dated, ſigned, or ſworn: But I apprehend the Counſel for the Bill have more reaſon to complain of Hardſhips of this ſort, in reading Papers on behalf of his Lordſhip, as Examinations ſign'd and ſworn, without ever proving that they were ſign'd or ſworn to, or that any ſuch Perſons were ever examin'd; whereas the Examination hinted at in the Biſhop's Complaint, was read as an Examination, or rather Confeſſion of a Perſon ſince dead, not ſign'd nor ſworn to, and fairly left to your Lordſhips to have ſuch weight as the nature of the Evidence deſerved.

7. The next Hardſhip, *viz.* that of reading Letters wrote by another Perſon, without proof that they were wrote with the Prelate's Privity, is begging the Queſtion upon the whole Proceeding; For whether there was proof of their being wrote with his Privity or not, is the Subject of the preſent Inquiry.

8, 9. The two laſt Hardſhips complain'd of, ſeem to be calculated for Perſons without doors, who are Strangers to what paſs'd at your Lordſhips Bar, That he was denied a Copy of the Letters in Cypher until the Tryal was ſo far advanced that he could not make the proper uſe of thoſe Copies. Will any one who reads this Complaint in his Lordſhip's Speech imagine, that after he had a Copy of thoſe Letters, he had twice as much time for his Decypherers to peruſe them as he himſelf deſired?

Or will a Perſon who ſhall read the next Complaint in his Lordſhip's Speech, That he was refuſed to read any of the Papers contain'd in the Trunk that had not been read by the Counſel for the Bill, ever be perſuaded that his Lordſhip read the three firſt Examinations of *Neynoe*, that had not been read by the Counſel, the Papers taken in *Neynoe*'s Pocket, the Certificate of the Surgeon return'd by Mr. *Crawford*, neither of which had been read by the Counſel for the Bill; That his Lordſhip was expreſly told, he was at liberty to read any Paper in the Trunk he ſhould think neceſſary to his Defence; and was only refuſed reading one Paper, becauſe he own'd it was for no other purpoſe, but to raiſe an Objection to a Matter which had not been inſiſted on by the Counſel for the Bill, that he might anſwer the Objection which he himſelf ſhould raiſe?

Theſe things will ſeem incredible to one who ſhall read this Catalogue of Complaints in his Lordſhip's Speech; and yet theſe are ſome of thoſe Complaints, which with the Aſſiſtance of a warm and maſterly Style, drew Tears from ſome of your Lordſhips Eyes;——

But when ſtripp'd of that falſe Beauty, and examined by the ſure and unerring Rules of Reaſon, appear to be without foundation; and to have been made without that ſtrict regard to Truth, which, I preſume by ſome part of his Lordſhip's Speech, he would be thought always to have.

From theſe Complaints his Lordſhip proceeds to ſupport ſome of the Objections taken by his Counſel to the Bill.

And one of the firſt Objections is of the ſame nature with ſome of the Hardſhips that have been complain'd of, that is, it might be an Objection did it not want the foundation of Truth.

The Objection I mean is, that it is a Bill *ex poſt facto*; your Lordſhips have heard a great deal ſaid upon the Hardſhips of Bills *ex poſt facto*;

We have been called upon to ſhew againſt what Law he has offended; it has been ſaid, If he has not offended againſt any Law, will you make a Law in his Caſe, which will not be a Law in the Caſe of any other Man? This is a ſurprizing Objection;

The Notion I always had of a Law *ex poſt facto* was, where a Fact was made criminal by a Law, which was not ſo at the time that Fact was committed.

But is that the preſent Caſe? Was it no Offence, before this Bill was brought in, to correſpond with the Pretender and his Agents, in order to ſubvert our Conſtitution?

Are we to be call'd upon to ſhew againſt what Law this is an Offence?

Or to have a Complaint made, that in puniſhing a Man for ſuch an Offence, you are making a Law in his Caſe, that will not be a Law in the Caſe of any other Perſon?

I hope it will be a Law in the Caſe of every Man that equally deſerves it.

But his Lordſhip is ſenſible of this Anſwer, and therefore gives it a very artful Turn, by applying it, not to the Fact, but to the Evidence: His Lordſhip ſeems to argue, that accumulative Evidence is as unreaſonable as accumulative Treaſon; and objects, that Proofs which communicate Light and Strength to each other, have only the Formality, without the Force of Evidence.

This Objection is deſtructive of all Proof that is not Mathematical, for all other Proof muſt neceſſarily be what he calls accumulative.

That is, it conſiſts of a variety of Facts and Circumſtances laid together, ſufficient to induce a Belief, which any of them ſingly would not do. This is the very Principle upon which the Trial of every Matter of Fact, not capable of a Demonſtration, does and muſt proceed.

Your Lordſhips in the next place have heard a ſtring of Objections, that have been repeated againſt each of the Bills.

That a Subject of *England* ought to be tried according to the Laws of *England* and *Magna Charta*:

To be convicted by legal Evidence:

And that a Diſtinction between Legal and Parliamentary Evidence is abſurd.

All theſe Poſitions I agree to;

But at the ſame time I muſt affirm, that this is a Trial agreeable to the Laws of *England* and *Magna Charta*; and that a Proceeding of this Nature is as neceſſary a part of our Conſtitution, as the Eſtabliſhment of the ordinary Courts in *Weſtminſter-Hall*.

The difference between Parliamentary and Legal Evidence, taken in the general Senſe of the word Legal, is improper.

And I affirm, the Evidence which has been offered in ſupport of this Bill, is legal Evidence.

What is legal Evidence, depends upon the Nature of the Inquiry, and the Judicature before which the Inquiry is made.

Depoſitions in writing are not legal Evidence in a Court of Law, but they are legal Evidence in a Court of Equity.

Upon an Indictment for Felony, or any other Miſdemeanour, one ſingle poſitive Witneſs, or Circumſtances only without any poſitive Witneſs to the Fact, is legal Evidence.

But upon an Indictment for Treaſon, the Law requiring two Witneſſes in the Courts below, one Witneſs, or Circumſtances, is not legal Evidence.

In Parliamentary Enquiries, which are excepted out of that Act and not reſtrained by any other, every thing is legal Evidence which may properly tend to a diſcovery of the Truth.

I can't think my ſelf at liberty at this time of day to mention what fell from the other ſide againſt the Power of the Parliament in general, and the rather becauſe the next Objection which they relied upon was introduced with an admiſſion of that Power.

But they ſay it ought never to be exerciſed but in Caſes of Neceſſity; and inſtance particularly in the Bill againſt the *South-Sea* Directors, as a Caſe of that Nature. Is there any Compariſon between the Offence of thoſe Men, and of one who has endeavoured to ſubvert our whole Conſtitution, to deſtroy our Religion, our Liberty, and every thing that is valuable?

When we reflect that theſe Endeavours have been conſtantly carrying on ever ſince the happy Eſtabliſhment of the Proteſtant Succeſſion;

That the many Diſcoveries of their Plots, the many Examples of publick Juſtice, have had no other Effect than to make them more ſubtle and cunning how to avoid the common Forms of the Law;

Theſe Reflections ſhew the Neceſſity of ſuch a Proceeding, to convince the World, according to your Lordſhips Report, that as Artifice and Diſguiſe don't leſſen the Danger to the Publick, nor mitigate the Guilt of the Offender, ſo neither ought they to protect him from Puniſhment.

The next Objection was addreſſed chiefly to one part of your Lordſhips, who were told that no civil Power upon Earth could deprive a Biſhop of the Exerciſe of his holy Function, but that muſt be done by another Judicature; and therefore it was obſerv'd by one of the Counſel, that wherever Iſſue is join'd in the Common Law Courts, whether Biſhop or no, the Court where ſuch Iſſue is depending muſt write to the Metropolitan to try it according to the Law of the Church.

Whether an Act of Parliament can deprive a Biſhop ſo as to make the Acts done by him afterwards invalid, is a Controverſy not proper at this time; but it will be admitted on all hands, that an Act of Parliament may reſtrain a Biſhop from the Exerciſe of his Function within any part of this Kingdom, ſo as to make the Exerciſe of it Criminal in him, or in any that aſſiſts him. And I believe if this Bill ſhould paſs into a Law, and there ſhould be a queſtion whether his Lordſhip was afterwards Biſhop of *Rocheſter*, the Courts of Law, upon producing the Act of Parliament, would hardly think it neceſſary to trouble the Metropolitan.

His Lordſhip has been pleaſed to ſay, that this is the firſt Inſtance where a Member of this Houſe has been judged in another.

I wonder that his Lordſhip, who is ſo great a Maſter of our *Engliſh* Conſtitution, ſhould have forgot the Caſe of one of his Predeceſſors in the See of *Rocheſter* in the Reign of *Henry* VIII. againſt whom a Bill was brought into the Houſe of Commons inflicting ſevere Pains and Penalties, which paſſed in that Houſe, and afterwards received the Approbation of this, and the Royal Aſſent.

They have cloſed their Objections to the Bill, with a very pathetick Admonition againſt the Conſequences of it.

They ſay the wiſeſt Man can't foreſee, nor the moſt innocent Man declare himſelf ſafe from the Conſequences of this Bill.

That a wiſe Man ſhould not be able to foreſee what will happen hereafter, is not very ſtrange;

But he muſt be a very wiſe Man indeed, in my poor Opinion, who can foreſee any danger to Innocence from the Proceedings upon this Bill. Your Lordſhips have attended with the utmoſt Patience, for ſeven Days together, to the Proofs for and againſt this Bill, and have given the Perſon accuſed all the Opportunities, afforded him all the Aſſiſtance poſſible, to make out his Innocence.

And whoever ſhall uſe this Precedent as a handle for Oppreſſion and Injuſtice; would certainly be guilty of the ſame Oppreſſion and Injuſtice without this Precedent.

The next Part of their Defence, conſiſted in Obſervations upon the Evidence for the Bill.

They raiſe great Triumph from *Neynoe*'s Examination, which they would repreſent as the Foundation of the whole Charge.

It is far from being the Foundation of the Charge, or offered as ſuch by the Counſel for the Bill.

But if it was, they have been ſo far from weakening, that they have added ſtrength to that Foundation.

As to the Inconſiſtences in it, they are not *Neynoe*'s, but *Kelly*'s. As to the Tale they have told, that at the very time when he was deluding a great Man with Confeſſions, either to get Money out of him, or to find an opportunity of making his Eſcape, he ſhould declare to *Skeen* and to *Steward* that what he had confeſſed was falſe; I ſay, as this is improbable in it ſelf, ſo it appears by our Evidence to be a mere Fiction of their own, without any poſſibility of being true.

It appears to be an Attempt, by a parcel of deſperate People engaged in the ſame Intereſt, to weaken *Neynoe*'s Evidence, whom they looked upon as a Betrayer of their Cauſe and Party.

From the Evidence of *Neynoe* they proceed to the other Evidence.

And here they tell your Lordſhips that we have ſupported the Bill by Innuendo's, Arbitrary and Invidious Interpretations; that when a Woman is named, it means a Man; that two different Names ſignify the ſame Perſon; that Books of Account, and mercantile Terms, by a new kind of Metaphor, are taken in an ill Senſe; and all this aſſiſted with the Whimſies and Conjectures of Decypherers.

Theſe are pretty ſounding Expreſſions; but, when conſider'd, are nothing but Sound.

Is it an arbitrary Interpretation when a Letter ſays, I ſaw Mrs. *Illington*, *He* is in great Tribulation for poor *Harlequin*, but *his* Obligations are the ſame, which *he* deſires may be made known, to apply this to a Man? When two Letters are wrote by the ſame Perſon, but ſign'd by different Names, to apply thoſe two Names to that Perſon?

When Letters give a Caution not to write any more till new Books of Account can be ſettled and ſent over by ſafe Hands;

Becauſe thoſe who have got part, may, by the ſame means, have got the whole;

To

To expreſs a doubt whether they have been betray'd by falſe Friends or an open Enemy?

To talk of having Wine, but wanting Barrels; of the abſence of the King and Court, as affording a proper opportunity of ſending over and ſelling their Wine:

A Man muſt have laid aſide his Reaſon, that can think this the Language of Perſons really dealing in a mercantile way: 'Tis the plain and common Cant of a treaſonable Correſpondence.

They next object to the unreaſonableneſs of applying the Circumſtances which relate to *Jones* and *Illington*, to the Biſhop of *Rocheſter*.

Was no body elſe beſides the Biſhop out of Town? Was he the only Man that had the Gout, or who loſt his Lady at that time?

Were theſe Queſtions to be asked ſingly, they might be anſwer'd, that there were other Perſons in the like Circumſtances.

But then the Anſwers would be nothing to the purpoſe.

The only Queſtion applicable to the preſent Caſe would be, Is there no other Perſon, who was in Town on the ſeventh of *May*, out of Town on the tenth and fourteenth, in Town on the fifteenth, whoſe Wife died the Week before the thirtieth of *April*, he himſelf then ill of the Gout, to whom a Dog was ſent from *France* of the name of *Harlequin*, that broke its Leg, and was brought to Mrs. *Barnes* by Mr. *Kelly* in order to be cured?

Theſe are the Circumſtances of *Jones* and *Illington*, and they are every one prov'd true of the Biſhop of *Rocheſter*, and I believe your Lordſhips can hardly think they are ſo of any other Perſon.

They ſaid they ſhould falſify ſeveral of theſe Facts; but they have only ſaid it.

In the Papers they have produc'd from the Surgeon concerning the Dog, he contradicts himſelf.

In the firſt he ſays he gave Mr. *Kelly* a Dog for his own uſe, to diſpoſe of as he pleaſed;

In the ſecond he ſays he gave it for Mrs. *Barnes*:

But Mrs. *Barnes* tells you, that the Dog deſign'd for the Biſhop was in her Cuſtody, when the other given by the Surgeon was expected over.

Their Attempt to diſprove the Circumſtances of being in Town, has met with as little Succeſs.

In a Letter of the ſeventh of *May*, 'tis ſaid Mr. *Illington* is come to Town for a day only:

We ſhewed that the Biſhop was in Town upon that day; they anſwer us by ſaying, he ſtay'd in Town two Days after.

Does this diſprove his being in Town upon the ſeventh? or does it weaken the proof of his being then in Town, becauſe he alter'd his mind, and ſtaid two Days longer than perhaps he at firſt intended?

This is the only Attempt they made to diſprove any of the Circumſtances relating to Mr. *Jones* and *Illington*. As to the other Inſtances which they pretend to diſprove, they relate to *Weſton* and *Rig*, and were not mention'd by the Counſel for the Bill.

They next object to the Method of proving the Similitude of Hands, and obſerve that the original Letter prov'd to be Mr. *Kelly*'s, and the three Letters applied to the Biſhop of *Rocheſter*, are dated at four Months diſtance; and how is it poſſible that the Clerks of the Poſt-Office ſhould be able to ſwear upon their Memories that they are of the ſame Hand-writing?

This is not a fair Repreſentation of the Evidence, For the Clerks told your Lordſhips that there was not any one Poſt during all that time, which did not bring ſome Letter in the ſame Hand, all which they copied, and had by that means contracted a perfect Idea of the Hand; ſo that they did not ſwear from Memory, but from a Knowledge gained by Experience, and many conſtant repeated Obſervations upon the ſame Hand.

There have been ſome other Objections made, that are ſcarce worth taking notice of.

'Tis ſaid Mrs. *Illington* is in great Tribulation for poor *Harlequin*, which *Kelly* could never ſay of the Biſhop of *Rocheſter*.

Surely there is nothing in this;

'Tis an Expreſſion that might be uſed of a Man of the graveſt Character, in a Letter of this ſort, to the Author of ſuch a Preſent.

Mrs.

Mrs. *Illington* is mentioned eleven Days after the Biſhop's Lady was dead. This is the Inſtance where 'tis ſaid Mrs. *Illington* is in great Tribulation for poor *Harlequin*, but *his* Obligation is the ſame, which *he* deſires may be made known.

That *Jones* is mentioned in other Cyphers for other Perſons, as in one for the Duke of *Norfolk*, in *Plunket*'s for a different Perſon.

But does it therefore follow that in *Kelly*'s he can't mean the Biſhop of *Rocheſter*?

It certainly does not.

And they ſeem to be convinced that the Biſhop is too well deſcribed in this Correſpondence, under the Names of *Jones* and *Illington*, to doubt whether he is meant by them.

And therefore they endeavour to give it another Turn, by ſaying this may be a malicious Contrivance of ſome Perſons, who have inform'd themſelves of his Lordſhip's Motions, and the Circumſtances of himſelf and Family: And to make this the more probable, they ſay that *Jones* and *Illington* are the only Perſons mentioned in this Correſpondence of Mr. *Kelly*'s with Circumſtances of this Nature.

One would not imagine the Perſons who made this Objection, had ſo often heard the Letters read.

E. 41. 'Tis ſaid Hore *is laid up with his old Diſtemper*, Hobbert *is pretty well recovered*..

E. 45. *Mr.* Hore *is laid up, and ſo is* Jemiſon *with the Gout.*

E. 49. *Rep.* is ſaid to be in the Country.

E. 59. *Ho.* and *Den.* are ſaid to be gone into the Country.

E. 62. Nic. W. *is now in Town, he is well as to Health.*

E. 64. *Trotter* is ſaid to be out of Town the next Morning.

E. 69. *Den.* is ſaid to come to Town, *Rep.* and *Ho.* to be in the Country.

E. 73. *C. Saunders* is *well, and with a Friend in the Country.*

Theſe are all Inſtances where the ſame Circumſtances are mentioned of other Perſons, that are mentioned of *Jones* and *Illington.*

If *Jones* and *Illington* are oftenеſt mentioned, it is becauſe he was the principal Perſon in this Correſpondence.

But this malicious Contrivance muſt be carry'd on by Mr. *Kelly*: for

It has been proved that the Letters were wrote in his Hand, that the Anſwers were addreſſed according to his Directions;

That he received the Letters ſo directed.

I believe your Lordſhips have no Suſpicion that Mr. *Kelly* bore any ill Will towards the Biſhop;

I am ſure there has been no Proof of it, nor of any malicious Contrivance againſt him.

But, my Lords, this is the common trite Excuſe of every petty Offender.

Your Lordſhips can ſcarce read a Tryal, where the Defendant don't complain that it is all a malicious Contrivance of his Enemies.

I heard this very thing warmly inſiſted upon a few Terms ago, at another Bar, and with as much Proof, by a Perſon concern'd in a Part of this Conſpiracy, who has ſince been attainted and own'd his Guilt.

But we have gone ſtill further, we have ſhewn that *Kelly* was an Acquaintance of the Biſhop of *Rocheſter*'s.

Which is indeed acknowledged, without any Satisfactory Account given for what Purpoſe his Lordſhip ſhould contract an Acquaintance with a young Fellow that has deſerted his Orders, and is a profeſs'd Nonjuror.

Your Lordſhips, I preſume, from the Behaviour of Mr. *Kelly*, can hardly be perſuaded that he had no other Employment under the Biſhop than to furniſh him with Beaver-Stockings, which the Biſhop owns to have received from him as a Preſent.

But we have proved by the ſtrongeſt Evidence that can be, by a Letter under his Lordſhip's Seal, and I may venture to ſay (from the Obſervations that have been made from the Letter it ſelf) under his Hand, that *Johnſon* i. e. *Kelly*, is the Perſon in whoſe Hand the Biſhop returns his Anſwers. No Account is given of this Letter, by whom it was wrote, nor to whom, nor how it came among his Lordſhip's Papers.

All that is ſaid in anſwer to it is, that 'tis poſſible Seals may be counterfeited, or there may be ſeveral Impreſſions of the ſame Seal: but is there any Proof of this?

It

It appears that the Impreſſion on the firſt Letter was broke when ſeized, that it was in the hands of the Committee of the Houſe of Commons before the ſecond Letter was taken, which makes it impoſſible to imagine an Impreſſion ſhould be taken off the firſt to put upon the ſecond.

But his Lordſhip is pleaſed to ask, Is it agreeable to the cunning with which he is charged, to keep ſuch a Letter by him on purpoſe, as it were, to furniſh his Adverſaries with Evidence?

No, my Lords, neither do I imagine his Lordſhip knew he had it by him.

It was found amongſt his Papers, and, no doubt of it, was left there accidentally, and 'tis by ſuch little Accidents that the moſt Cunning Men are detected: there is no danger of their committing greater Overſights.

His Lordſhip is pleaſed to obſerve: that at firſt the Houſe of Commons repreſented this Letter as a Letter wrote to him, but now 'tis diſcovered to be wrote by him: It is ſo, and very plainly, and his Lordſhip may thank himſelf for the Diſcovery; and the not diſcovering it ſooner is ſurely no Objection to the Truth of it when diſcovered.

It may be urged, and has been inſinuated, that if Mr. *Johnſon* is the Perſon in whoſe hand the Biſhop returns his Anſwers, yet how does it appear that theſe particular Letters which are applyed to the Biſhop were wrote by his Directions?

If it appears that *Johnſon* is the Perſon in whoſe Hand he writes, and that theſe Letters are of the Hand-writing of *Johnſon*, ſigned by that Name which denotes the Biſhop in the Correſpondence, this will be thought a reaſonable proof that they were wrote with his privity.

But they ſaid they ſhould prove it impoſſible that theſe three Letters ſhould be wrote with the privity of the Biſhop; for they bear Date the twentieth of *April*, whereas the Biſhop came to Town the eleventh, went to *Bromley* the twelfth, and within two or three Days after was taken ſo ill with the Gout, that he had neither the uſe of his Hands or Feet, and had a Servant always attending him, who will prove that no Stranger came near him all that time.

If this had been made out, it would not be a proof that the Letters were not dictated by him; for both *Kelly* and the Biſhop were in Town upon the eleventh and twelfth, and the Biſhop was not confined at *Bromley* upon the thirteenth and fourteenth, when Mr. *Kelly* was out of Town and probably at *Bromley*. And tho' the Letters bear Date upon the twentieth of *April*, yet 'tis not to be imagined, that they were wrote upon that Day; for it requires a good deal of time to reduce three Letters into Cyphers; and the Method generally uſed, where Letters are to be ſent in Cyphers, is, to write them in common Hand firſt, and then reduce them to Cyphers after; ſo that its probable the Subſtance of theſe Letters was dictated many Days before they were perfected and ſent.

But the Evidence given by the Biſhop's Servants is not to be regarded.

The firſt Servant when he had ſworn what he thought was material for the Biſhop, being preſs'd by a noble Lord with a Queſtion relating to the Letter directed to *Dubois*, refuſed to give any Anſwer, till the Biſhop publickly gave him Leave; tho' he was ſworn to ſpeak the whole Truth; which ſhews too great an Attachment to his Maſter's Intereſt to deſerve much Credit.

He and the ſecond Witneſs did admit, that the Apothecary or the Miniſter of the Pariſh might be with the Biſhop without their Knowledge; and if ſo, why not Mr. *Kelly*, whoſe Viſits required more Secrecy than either of the others.

And I muſt here obſerve, that what the Reverend Prelate inſiſted upon to add Credit to the Evidence of theſe Witneſſes, is the greateſt Objection to their Teſtimony imaginable.

They tell your Lordſhips, that tho' they were with the Biſhop in the Tower, yet he never once ſpoke to them concerning the Matter they had given in Evidence, till they themſelves recollected it upon reading the Report, and finding that the Biſhop was charged with being the Author of three Letters, dated the twentieth of *April*, they immediately recollect that the Biſhop was ill at that time, and they conſtantly about him. This ſeems to be a Story ſcarce credible; That the Biſhop himſelf who was ſo nearly concerned, ſhould not upon reading the Report recollect the Circumſtances he was under at the time when thoſe Letters bore Date, if the Truth was as they would repreſent it; but that the Servants ſhould firſt recollect this, and ſuggeſt it to their Maſter.

Or if the Biſhop did recollect it, 'tis ſtrange he ſhould not mention it to thoſe Servants, who were preſent with him in the Tower, and the only Perſons, who as they ſay, were capable of clearing his Innocence.

This had been very natural, and proper under his Circumſtances; and his not ſpeaking to them firſt, could hardly proceed from an unreaſonable Scruple, leſt he ſhould be ſuſpected of laying a byaſs upon them; ſince his Lordſhip has, after he knew they were to be Witneſſes, given each of them a place under him as Dean of *Weſtminſter*.

The reſt of the Servants that were called, tho' they contradict the firſt, by admitting that two other Gentlemen were at the Biſhop's at *Bromley*, during the time in Queſtion; yet they plainly ſhew a greater regard for their Maſter's Intereſt than for Truth; for the one of them was but the Helper in the Stable, and another the Nurſe that attended his Lady in her Illneſs, yet they take upon them to ſwear that they verily believe no Stranger could be with their Maſter in private, but they ſhould have known of it, and that they never knew of Mr. *Kelly*'s being there.

Every Body's Obſervation muſt ſuggeſt to them that ſuch a Belief muſt be without Foundation.

The next Arguments uſed on behalf of the Reverend Prelate at the Bar, were raiſed from his unambitious reſigned Temper of Mind, and from the Style of the Letters laid to his Charge, That its not probable he ſhould uſe ſo indecent an Expreſſion of Perſons he was concerned with, as to call them *pretending unſupported People*.

What Weight there is in theſe Arguments I muſt ſubmit to your Lordſhips, who are much better acquainted with his Temper and Style than I can pretend to be.

The laſt thing preſſed by the Reverend Prelate is a ſolemn Proteſtation, I cannot ſay of Innocence, becauſe it ſeems to me to be conceived in ſuch Terms as not to contradict any part of the Charge inſiſted upon by the Counſel for the Bill:

It is chiefly calculated to anſwer ſome particular Circumſtances of Times, without any denial of the general Charge, or the leaſt Declaration of Affection or Loyalty towards his preſent Majeſty.

But if his Proteſtations amounted to a direct and poſitive denial of the Charge, they ought not to have any Weight with your Lordſhips, ſince this is a Defence equally in the Power of the moſt Guilty as well as the Innocent: a little Proof is better than many Proteſtations.

And I can't help obſerving upon this Head, and I hope his Lordſhip won't impute this Obſervation to Ill Nature but a Sence of my Duty, which obliges me to make all proper Obſervations, That it appears his Lordſhip has not always that ſtrict regard to Truth, which he ought to have, by the Papers taken upon his Servant at the Tower.

The nature of the Puniſhment has been much talked of in the Courſe of theſe Proceedings, and great Lamentations made upon it, but ſurely without any Reaſon.

For this Argument ſuppoſes the Party Guilty of the Charge, or elſe it's ridiculous to object to the Severity of the Puniſhment.

And I may venture to affirm this is the mildeſt Puniſhment that ever was inflicted for ſuch an Offence.

His Life is not touched, his Liberty nor Property affected, he is only expelled the Society whoſe Government he diſapproves and has endeavoured to ſubvert, and deprived of the publick Employment which that Government had intruſted him with: The Enjoyment of his Life, his private Eſtate, and his Liberty under any other Government that may be more agreeable, is allowed him.

This is ſcarce to be called a Puniſhment, being nothing more than what was abſolutely neceſſary for the publick Security.

The Commons of *Great Britain* have done their part towards providing this Security, and I don't doubt but it will meet with the Concurrence of your Lordſhips.

FINIS.

12

THE

Bishop of Salisbury's SPEECH

IN THE

HOUSE OF LORDS,

UPON THE

THIRD READING

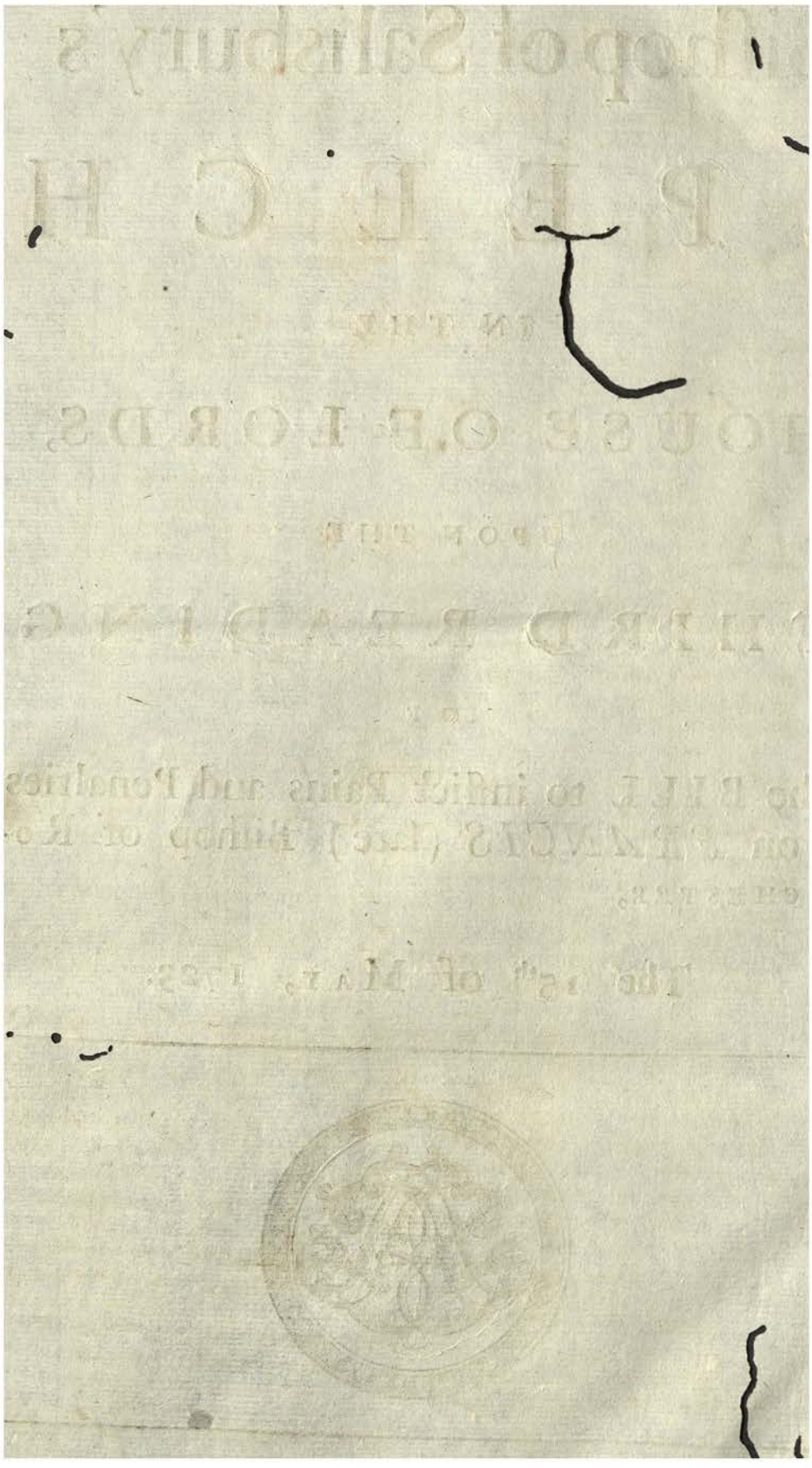
OF

The BILL to inflict Pains and Penalties on *FRANCIS* (late) Bishop of Rochester,

The 15th of May, 1723.

LONDON,
Printed by S. BUCKLEY in *Amen-Corner*. 1723.

[Price Sixpence.]



THE Biſhop of Salisbury's SPEECH IN THE HOUSE OF LORDS, &c.

My Lords,

AS I have ſometimes troubled your Lordſhips with what I had to ſay in ſome other Debates, I believe it will be expected that I ſhould ſay ſomething in a Caſe ſo extraordinary as this is; and wherein a Brother Biſhop is ſo nearly concerned. I beg leave to begin with taking notice of ſome Things that were peculiarly addreſs'd to this Bench, both by the Reverend Prelate, and his Counſel, from the Bar.

The firſt is, That we would conſider how agreeable it may be to the Canons and Diſcipline of the Church, in this extraordinary Manner to deprive a Biſhop of all his Preferments; and to prohibit him the Uſe and Exerciſe of his Function for his Life.

As to this Objection, whatever Influence it may have abroad among ignorant People, when the Speeches come to be printed; yet, as to your Lordſhips, who know our Conſtitution ſo well, I cannot imagine that it can have any Weight or Influence at all. And indeed when I conſider all the Acts of Parliament relating to the Supremacy, that have been made for near two hundred Years; when I conſider the Articles of our Church, our Canons, and the Subſcriptions that the Biſhop himſelf muſt have made, and muſt have required from others, in the Exerciſe of his Function as a Biſhop; when, I ſay, I conſider all theſe things, it is Matter of Wonder to me, that ſuch an Objection ſhould be made, either by a Biſhop of the Church of *England*, or by a Lawyer of the Kingdom of *England*.

I do not indeed recollect above one Inſtance of a particular Act of Parliament made to deprive a Biſhop; which is, that of *Fiſher* Biſhop of *Rocheſter*; who was ſo deprived in the Time of *Henry* VIII. But, as to general Acts of Parliament, whereby both Biſhops and Presbyters have been depriv'd of their Preferments, we have a good Number. Thus, in the Beginning of Queen *Elizabeth*'s Reign, almoſt all the Biſhops of *England* were ſo depriv'd: And at the Revolution, many were ſo; and all might have been ſo, if they had not comply'd with the Terms of the Act of Parliament: And at the Reſtoration, many hundreds of Presbyters were depriv'd in the ſame Manner. And I conceive that it cannot well be doubted, but that the ſame Authority which can make Laws by which the whole Bench may be depriv'd, may exert it ſelf in a particular Caſe, if they have juſt Reaſons for it.

As to the Tryal of Biſhops, for any Crimes they ſhall be guilty of, we are to conſider the different Nature of the Crimes of which they are accuſed; and the Tryal by Law muſt be accordingly. If the Crime be of an Eccleſiaſtical Nature, ſuch as Eccleſiaſtical Courts can take cognizance of, as Simony, Hereſy, and the like; the Tryal regularly muſt be by the Arch-Biſhop of the Province, taking to his Aſſiſtance ſome of his Suffragan Biſhops. But even in this Caſe, if either the Arch-Biſhop ſhall, upon Complaint, neglect to try him; or, if upon Tryal he ſhall acquit and abſolve him; the Accuſer may appeal to the King in Chancery: Which Court may appoint a Commiſſion of Delegates, who may, by the Authority of the Crown, judge him, deprive him of his Biſhoprick, prohibit

prohibit him the Uſe of his Function for his Life, (if the Crime deſerve it) tho' he were before acquitted by the Arch-Biſhop. But if the Crime be of a Civil Nature, ſuch as Treaſon, (which is the Caſe now before us) the Eccleſiaſtical Authority has nothing at all to do with it; and ſhould any Eccleſiaſtical Judge attempt to meddle with it, he would be judg'd to attempt againſt the King's Crown and Dignity, and quickly have his Proceedings ſtopp'd, by a Prohibition out of the Temporal Courts: And I would beg leave to obſerve further, that were this Biſhop to be try'd in the common Courſe of Law, for the Crime whereof he is accuſed in this Bill, it muſt be, either by your Lordſhips, as a Member of this Houſe; or by the Judges and a Jury in *Weſtminſter-Hall*. I would not at preſent ſay which, becauſe it would lead me out of the Way: But in this Caſe, if either your Lordſhips, or the Judges below, ſhould paſs Sentence upon him for the Treaſon of which he is here accuſed, that Sentence would, *ipſo facto*, deprive him of his Biſhoprick: It would alſo make him liable to loſe his Life; but it would not, *ipſo facto*, take it away, as it would his Biſhoprick: He might notwithſtanding that Sentence live many Years; but from the Moment of it, would be no more Biſhop of *Rochester*.

Theſe Things, I humbly conceive, are abundantly ſufficient to anſwer this firſt Difficulty; and therefore I ſhall add no more but this one Obſervation: That the Way that is now taken to deprive him, is the only Way that I know of, wherein the Biſhops can have any Part in the Sentence of Deprivation.

The next Thing that was ſuggeſted from the Bar, particularly to this Bench, was, That we ſhould conſider well what we are doing, and have a Care that we do not, by concurring in this Bill, make our Titles to our Biſhopricks precarious.

As to this Admonition, the Anſwer is very eaſy; *That it becomes us, as we* have the Honour to have Seats in Parliament, to take care to do Juſtice, as, on the one ſide, to the Priſoner; ſo, on the other ſide, to our King and Country: And to truſt in God, that in ſo doing we ſhall neither hurt our ſelves, nor our Succeſſors. But, ſo far as juſt Judges may look to Events, the Argument ſeems to me to lie the other Way: For, if for want of doing Juſtice againſt Traytors to King *George*, the Pretender ſhould happen to prevail, (which God avert) the Title of Proteſtant Biſhops is like to be very precarious indeed.

As to the Power of Parliament to paſs Bills of this kind, the Parliament always had it, has frequently exercis'd it, and always muſt have it; it being eſſential to the very Being of the ſupreme Power. The Lives and Liberties of every Man in *England* are ſubject to it; and though the Exerciſe of this Power may be dangerous to Perſons, who will venture upon treaſonable Practices, truſting to their Cunning and Artifice to skreen them from the Law; yet I have that Confidence in the Integrity and Juſtice of the Crown, and two Houſes of Parliament, that, ſo long as this Example is followed, of giving a full and fair Hearing to the Perſons accuſed, innocent Men cannot eaſily ſuffer; or, in all Events; that if Corruption or Faction ſhould ever ſo far prevail, that there ſhould be Danger to innocent Perſons, it will be much eaſier to corrupt Witneſſes or Juries, or, to find other Methods to deſtroy them, than it will be to prevail upon a Parliament to do it: As I am perſuaded that, in this particular Caſe, had there been any Corruption, ſome other Method would have been found out, more effectually to come at the Perſon concern'd, than this is like to do.

The laſt Particular that the Biſhop peculiarly addreſs'd to this Bench, was, That we would conſider the Words of St. *Paul* to *Timothy*; *againſt an Elder*

1 Tim. v. 19. *receive not an Accuſation, but before two or three Witneſſes.* The Senſe of which Words his Lordſhip underſtood to be, That an Accuſation ſhould not be ſo much as *receiv'd* againſt an Elder or Presbyter, and much leſs againſt a Biſhop, but upon the Oaths of two or three Witneſſes.

In Anſwer to this, I beg leave to obſerve, that our Tranſlation renders the Words, not, *upon the Oaths*; but, *before* two or three Witneſſes: which ſeems to import a very different Senſe from that his Lordſhip puts upon them. But, not to enter into any critical Examination of the Truth of our Tranſlation, or what the real Senſe of the Words is, I would only make theſe two ſhort Obſervations: Firſt, That the Senſe the Biſhop puts upon them, that an Accuſation againſt a Presbyter or Biſhop, muſt not be ſo much as receiv'd into Court, but upon the Oaths of two or more Witneſſes, is not practiſed in the Church of *England*; and, I believe, never was practiſed in any Chriſtian Church whatever.

The

The ſecond Obſervation I would make is, That whatever be the Senſe of theſe Words, it regards only the Conduct of a Biſhop towards his Preſbyters; but certainly was never intended to give a Law to the Supreme Power of a Kingdom, in its Proceedings in Caſes of High Treaſon, againſt any Subject whatſoever.

But the Biſhop urges further, that the *Jewiſh* Law did require at leaſt two or more Witneſſes in all Judicial Proceedings; and from thence infers, that it ought to be ſo amongſt us.

In Anſwer to this it may be reply'd, that this is a Part of the Judicial Law of the *Jews*, which was not given to us, and therefore doth not oblige us any more than the reſt of that Law doth; except, where the Reaſon of the thing lays an Obligation upon us. But indeed, I am of Opinion, that that Law doth oblige us, ſo far as it was intended to oblige them, and ſo far as it can be adapted to the infinite Variety of Caſes, that muſt happen in Judicial Matters. That Law is very ſhort, and therefore muſt leave many Queſtions that may be made about it, undetermined: I ſhall at preſent take notice of theſe two only, which may be material to our preſent Diſpute; the firſt is, Whether the Meaning of it be, that all Controverſies and Accuſations whatever, muſt be determined by Witneſſes and no other way? or, Whether upon Suppoſition that the Matter be to be determined ſolely by Witneſſes, and no Light can be brought to it any other way; that then the Witneſſes muſt be at leaſt two? The Second is, Whether thoſe Witneſſes muſt ſwear directly to the Fact; for Inſtance, that they ſaw ſuch a Man murther another, or the like; or whether it may not be ſufficient, that they ſwear to ſuch Circumſtances, as infer a ſtrong and violent Preſumption, that ſuch a Fact was committed by ſuch a Perſon?

Theſe things are left undetermined in that ſhort Law of the *Jews*; but I humbly conceive, are ſufficiently determined by the Nature of the thing; and by the Laws of all Nations, and particularly of our own. It is true indeed, that in Caſes of High-Treaſon, we have from Political Conſiderations determined, that there muſt be two poſitive Witneſſes, to ſome one or more Overt Acts of the ſame Treaſon; but, as to all other Crimes, that equally affect the Lives and Eſtates of all the Subjects of *England*, this is not the Caſe; and Men may by Law loſe their Lives, when there is not ſo much as one poſitive Witneſs to the Fact. I beg leave to explain this in the Words of my Lord Chief Juſtice *Coke*; "*When a Tryal is by Witneſſes, regularly the "Affirmative ought to be proved by two or three Witneſſes; but when the Tryal "is by Verdict of twelve Men, there the Judgment is not given upon Witneſſes, "or other kind of Evidences, but upon the Verdict; and upon ſuch Evidence as is "given to the Jury, they give their Verdict; and many times Juries, together "with other matter, are much induced by Preſumptions.*" And indeed, if no Man could be convicted of Murther, or Robbery, or other Crimes of that Nature, but by two poſitive Witneſſes that ſaw the Fact done; nothing would be eaſier or ſafer, than the Commiſſion of thoſe Crimes; and no Man could have any Security, either for his Perſon or his Eſtate: And therefore, if in Caſes of High-Treaſon our Law requires poſitive Witneſſes, it is not from any moral Neceſſity, or Point of Conſcience; but from political Reaſons, which muſt, and always will be, ſubject to the Judgment of Parliament.

1 *Inſtit. fol.* 6.

Having now done with what was from the Bar peculiarly applied to this Bench, and having I hope, given a very plain Anſwer to it: I now beg your Lordſhips Leave to proceed more directly to the Bill it ſelf. And here, two things are neceſſary to be conſidered, in order to convince your Lordſhips, that it is a Bill fit to be paſſed: The firſt is, the Lawfulneſs of it; the ſecond is, the Prudence or Expediency of it.

As to the Lawfulneſs of it, it will be neceſſary alſo to conſider two things; firſt, Whether your manner of Proceeding in this Bill be Lawful: ſecondly, Whether the Biſhop be really Guilty of the Crimes charg'd upon him.

As to the manner of Proceeding, many things have been objected; That it is by way of Bill, and not a Tryal in the Courſe of Law; That Evidence has been admitted, that would not have been admitted in any of our Courts; That theſe Things are contrary to the Liberty of the Subject; That every Subject has a Right to the Laws of his Country; and That he has an Injury done him, if he be denied the Benefit of them: This I take to be the Sum of what has been objected, againſt the Juſtice of your Proceedings in this Bill. In

In Anſwer to theſe Objections, I beg leave to conſider, firſt, wherein the Liberty of *England* conſiſts; which is a Point commonly pretty much miſtaken. Many People are apt to imagine, that the Difference betwixt us, and ſome of our neighbouring Countries, is, that they are under Abſolute Power, and we are not; whereas in truth all Countries, that are Supreme within themſelves, have equally an Abſolute Power; and in the Nature of the thing it cannot poſſibly be otherwiſe: No Government can ſubſiſt, if there be not a Power in it, to change, to abrogate, to ſuſpend, or diſpenſe with its Laws, as Neceſſity or Conveniency ſhall require; which is what we call Abſolute Power; and therefore, the Difference betwixt one Government and another, does not lie in this, that one has ſuch a Power and the other has not; but lies merely in the Difference of the Hands, in which this Power is placed: Where this is placed in one Hand, in the King, we call that an Abſolute Monarchy: Where this is not ſolely in the King, but only as he acts in conjunction with the States of the Kingdom, that we call a Limited Monarchy; and the People that live under ſuch Government, are called a Free People; becauſe they live under Set Laws, which could not at firſt be made, nor can afterwards be altered or diſpens'd with, but by their own Conſent: However, there is ſtill in ſuch Countries, a Power, equally above all their Laws, as there is in the moſt abſolute Monarchy in the World.

What I have ſaid upon this firſt Head, will in a great meaſure explain the ſecond Queſtion: What that Right is, which the Subjects of this Country have to its Laws: which is in ſhort, a Right to claim the Benefit of them againſt the Crown, or any Court acting under the Crown, till the States of the Kingdom, (which are virtually every Man in the Kingdom) think fit to conſent to the Alteration of 'em. The King is indeed Supreme, but his Power is only according to the Laws in being: *By them he is bound to act, and if any* of his Officers act contrary to 'em, what they do is null and void; and they are puniſhable for it; and the Subjects have a Claim of Right againſt them: But if the King and his People think fit to come to a new Agreement to alter any ſuch Law, there's an end of all Claim of Right in the Subject: the Claim is taken away by their own Conſent; for, as I ſaid before, every Man in the Kingdom virtually conſents, to what is done by an Act of Parliament.

And there is an abſolute Neceſſity, that there ſhould be ſuch a Power as this in every Country; for the State of humane Affairs is ſo changeable, that it does not admit of any Set of unalterable Laws. What is Good at one time, may be Deſtructive at another; and what is generally good, may, under particular Circumſtances, require a Diſpenſation by a proper Authority. And here, give me leave to obſerve to your Lordſhips, the Difference there is betwixt the eternal Laws of Juſtice and Righteouſneſs, and all poſitive Laws whatever. That as to the firſt, we are made for them, and the nearer we do in all things conform to them, the more noble, and lovely, and excellent Creatures we are: but as to poſitive Laws, they are all made for us; and the more they conform to us, the more they obviate all our Wants and Difficulties; the more they anſwer to all our Neceſſities, the better they are.

As to what is complain'd of, that your Lordſhips have admitted Evidence to be read, that would not have been admitted in the Courts below: I conceive, that acting in the Capacity you now do, you have a full Power to do it, and have not broken any of the general Rules of Juſtice by it. You have let in all the Light, that you thought might be proper to give you a full Knowledge of the Matter; and in the Capacity you now act, I cannot but humbly be of Opinion, it was your Duty to do ſo; but in forming of your Judgments, I take for granted, that your Lordſhips will diſtinguiſh, and lay no more Weight upon any thing than it deſerves.

As to the Rules of receiving Evidence in *Weſtminſter-Hall*, I conceive, that they are no part of natural Juſtice, but only artificial Rules fram'd for Convenience; and bind no Courts, but as they have agreed to them, and ſo are become the Cuſtoms of the Court. That theſe Rules are no part of natural Juſtice appears from hence, that even among our ſelves they are different in different Courts: That thoſe uſed in our Courts, are very different from thoſe uſed in other Countries: That they differ here, according to the different Cauſes or Crimes that are to be tried. Nay, they are ſo far from being fundamental Parts of Juſtice, that they muſt require a good deal of Time and Art to form them. And I am perſwaded, that was a Perſon of good natural

Senſe,

Senſe, who knows nothing of the Law, asked his Opinion; he would be apt to think it to be a part of natural Juſtice, that every Perſon that proſecuted a Cauſe in any Court, ſhould be at Liberty to produce before that Court, whatever he thought material to his Cauſe. And there is no doubt, but that this was the original Way of Proceeding: but that in proceſs of Time, when Courts came to have a good deal of Buſineſs, and they found by Experience, that this Way of laying every thing before 'em, tended to lengthen Cauſes (which was eſpecially inconvenient where Juries are concerned, who muſt end a Cauſe before they part,) theſe Rules were gradually found out; which, tho' they may be, for the Reaſons above ſpecified, generally convenient; yet, may ſometimes hinder Juſtice, by not ſuffering all the Light to come into Court, that may be material in the Cauſe.

Having ſaid thus much concerning the Juſtice of your Method of Proceeding, I now come to conſider the ſecond and the main Point of Juſtice to be regarded in this Bill; which is, whether the Biſhop be Guilty or not, of the treaſonable Practices charg'd upon him in it. And in this, I ſhall be the ſhorter, becauſe your Lordſhips have heard the Evidence on both Sides, and all that has been ſaid from the Bar by both Sides upon it; and becauſe, there are many noble Lords in the Houſe, much abler to lay things of this Nature diſtinctly and clearly before your Lordſhips, than I am.

The Cauſe of *Kelly* is ſo connected with that of the Biſhop, that I muſt beg leave to ſpeak a few Words to the one, before I proceed to the other. As to *Kelly*, I would obſerve in the firſt Place, that one ſtrong Preſumption of his Guilt is, that when he was firſt taken up, he reſiſted the Officers; that he ſeized his Sword, and ſome Papers that had been taken away from him; and *was reſolute to burn thoſe Papers, tho' with the apparent Hazard of his own Life, and being guilty of the Murther of one of the Officers that had ſeized him.*

In the next Place, it is prov'd before your Lordſhips, that after he was taken up, the People at his Lodgings burn'd the reſt of his Papers; a plain Evidence, that they who knew his manner of Life and Converſation, ſuſpected that he was Guilty. And this is agreeable to what *Neynoe* told the Chancellor of the *Exchequer*; that there was at that time, a general burning of Papers.

Thirdly, Another Preſumption of his Guilt is, that when He was taken up the ſecond time, he offered ſeveral Sums of Money, to the People of the Houſe where he was in Cuſtody, to ſuffer him to eſcape, as appears from their Oaths at the Bar. Theſe things I mention, not as full Proofs of his Guilt, but as ſtrong Preſumptions, that make every thing elſe that is ſworn againſt him very credible.

The chief Evidences of his Guilt, are, a great Number of intercepted Letters, both from him, and to him, containing treaſonable Matters. Thoſe from him, are by ſeveral Witneſſes prov'd to be his Hand-writing, particularly by the Officers of the *Poſt-Office*, who took them and tranſcribed them. And as to thoſe to him, ſeveral Witneſſes have prov'd, that he gave Orders at ſeveral Publick-Houſes to take them in, when they came from the Poſt; that he himſelf received them from thence, opened, and read them: And it is alſo further proved, that Anſwers were returned to them in his own Hand-writing. Theſe things all together, I take to be ſuch plain and ſtrong Evidences of his Guilt, that I ſhall trouble your Lordſhips no further about him.

As to the Perſon concerned in this Bill, though it be a great Trouble to me, to think, that any Biſhop of this Church ſhould be guilty of ſo foul a Crime, as that objected to him; yet, I cannot but be of Opinion, that if he be really guilty, the Intereſt of our Church, as well as Juſtice to our King and Country, do require, that he ſhould be convicted and puniſhed. And indeed, I cannot but be humbly of Opinion, that whoever believes *Kelly* to be guilty, muſt believe the Biſhop to be guilty too.

I ſhall not Inſiſt upon what is commonly called Hear-ſay-Evidence, though there be a great deal of it againſt the Biſhop; only muſt obſerve, that the Conduct of a Proteſtant Biſhop muſt have been very odd and unaccountable, if he be Innocent; that ſo many Jacobites, (as have done in this Caſe) ſhould declare, that they not only eſteemed him to be in the Plot, but to be the chief Conductor of it. It is however fit to ſay ſomething as to the Caſe of *Neynoe*; becauſe the Biſhop and his Counſel have taken up ſo much of your Lordſhips Time,

Time, and produced ſo many Witneſſes to prove him a Knave. I did indeed my ſelf always think him to be a Knave, and that nothing that he ſaid was to be believed, merely upon his Authority; but on the other ſide, the Teſtimony of the greateſt Knave in the World, may be taken againſt himſelf; and they themſelves have proved, that he was a Jacobite, and thoroughly in that Intereſt, even when he was making ſome Diſcoveries againſt them; and therefore, what he ſays, in that reſpect bears ſome Weight, as being againſt Perſons whom he favoured, and would hurt as little as poſſible: Some other Things that he ſaid are alſo confirmed by concurrent Circumſtances, and other Diſcoveries; and theſe may have their Weight, tho' he were never ſo great a Knave. One of the Things that he ſaid in his Confeſſion, was, that he frequently went with *Kelly* to the Biſhop of *Rocheſter*'s, and left him there, (as *Kelly* told him) to Write his Letters. This is confirmed by a credible Witneſs at your Bar, who ſwears, that *Neynoe* uſed to be frequently at his Houſe, and told him, at leaſt three or four times, that he waited there for a ſenſible, ingenious Gentleman, that was gone about Buſineſs to the Biſhop of *Rocheſter*: He did not indeed tell him his Name; but the thing ſeems to me to look ſtronger than if he had; becauſe, it would have looked more like a Piece of Art and Contrivance, to have told the Name of a Man, whom he knew to be gone to the Biſhop about a criminal Correſpondence. I would only beg leave to take Notice to your Lordſhips of one thing more, relating to *Neynoe*: the Biſhop's Witneſſes have fully proved, that *Neynoe* told them, that the Chancellor of the *Exchequer* had given him ſeveral Sums of Money, to endeavour to get out of *Kelly*, the Explication of the Cant Names that were uſed in the Correſpondence; and that he had promiſed him much greater Sums, if he would go to *France*, and get it out of *Dillon*, and the Jacobites there: the Inference from which I take to be very plain, that the Court did not then know, who the Perſons were, that were deſigned by thoſe Cant Names; and that they did believe that *Kelly* did know, and that *Dillon* and the Jacobites in *France* knew too; which effectually and fully confutes that Suggeſtion of the Biſhop, of which he did not bring the leaſt Proof, that the Plot was a Contrivance of Perſons in Power.

The next thing I would beg leave to take Notice of, relating to the Biſhop, is a Letter, (taken among his Papers) from a Lady of great Quality; of which the Biſhop, tho' it was objected to him by the Counſel for the Bill, has taken no Notice; which I conceive he would and ought to have done, had it been poſſible to give any fair Account of it. The Lady in that Letter tells him, *that ſhe ſent ſomething that ſhe had received, ſhe could not tell for whom; but let it be for whom it would, ſhe thought He might be truſted, and that it could not be put into better Hands:* A ſtrong Suſpicion this, conſidering all Circumſtances, that here was a Correſpondence by Cant Names which the Lady did not certainly know, but believed the Biſhop might; or however, that he was in all Events a Perſon to be truſted.

The Dutcheſs of Ormond.

Another very ſuſpicious Circumſtance againſt the Biſhop, is, the Letters from Captain *Halſted*; and what has been proved at your Bar, that this ſame Captain *Halſted*, a little before he went in his Ship to fetch over the Duke of *Ormond*, waited upon the Biſhop, and ſtay'd with him an Hour. This Thing indeed directly proves nothing; but all things conſidered is very ſuſpicious, and the more ſo, becauſe the Biſhop has given no Account, either of his Acquaintance with him in general, or of the particular Reaſon of that Viſit, at a time that leaves ſo much ground to ſuſpect the worſt.

The next Particular that deſerves your Lordſhips Conſideration, is, the Letter to *Dubois*, found among the Biſhop's Papers when he was taken up, and found now to be ſealed with the ſame Seal with that Letter taken upon the Biſhop's Servant, which he confeſſeth to be his own Hand-writing. It is not indeed proved, that the Letter to *Dubois*, is the Hand-writing of the Biſhop; but any Body that reads it, will eaſily be perſuaded, that it is not the natural and ordinary way of Writing of any Perſon; but a diſguiſed Hand like a Print; except only ſome few Letters, which eſcaped the Care of the Writer, and are very like thoſe of the Biſhop. But after a long Examination, which has taken up a great deal of your Lordſhips Time, it appears plainly, that the Seals are the ſame, and that the one could not be counterfeited from the other; becauſe, the firſt Letter was originally taken with the Seal broken, and was in the Poſſeſſion of the Houſe of Commons when the ſecond Letter was taken upon

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the Biſhop's Servant: It appears plainly by this Letter to *Dubois*, that the Perſon who wrote it was in a ſecret and dangerous Correſpondence; that he was an Acquaintance of Mr. *Johnſon*, or *Kelly*; that he received Letters by his Hand, and wrote an Anſwer in his Hand: How far all theſe Circumſtances taken together, prove the Biſhop to be the Author of this Letter, I muſt ſubmit to your Lordſhips Judgment; for my part, I think they do; eſpecially conſidering, that the Biſhop has given no Account of it, which he ought to do by Law, of a Letter of this nature, plainly proved upon Oath to have been in his Poſſeſſion.

I now beg leave to proceed to that which is the Principal Charge againſt the Biſhop, the dictating to Mr. *Kelly* the three Letters of the 20th of *April*; ſign'd, one, by the Name of *Jones*; another, by the Name of *Illington*; the third, by the Figures 1378; which the Decypherers explain by the Letter *R*. The firſt, directed to Mr. *Chivers*, or *Dillon*; the ſecond, to Mr. *Muſgrave*, or Lord *Marr*; the third, to Mr. *Jackſon*, or the *Pretender*.

It may be proper, before I take notice of the Proofs which ſhew that the Biſhop did really dictate theſe Letters, to take notice of an Objection with reſpect to the Time; the Letters are dated the 20th of *April*, and the Biſhop has produced five or ſix of his Servants, who ſwear, that about that time he was ſo very ill, that he could not write himſelf; and that he did not ſee any Perſon, to whom he could dictate theſe Letters. Now in Anſwer to this, it may be replied; that it does not appear, that all the Servants which the Biſhop then had, were produced before your Lordſhips; and you cannot but be ſenſible, that Treaſonable Practices are commonly carried on in a very ſecret Way; and it appears, that the Biſhop's Correſpondence with *Kelly* has been ſo carried on; *for tho' there is plain Evidence, that they were frequently together, and that they were acquainted is confeſs'd, both by the Biſhop and Kelly*; yet, ſcarce any one of the Servants produc'd, would confeſs, that ever they had ſeen *Kelly*, or ſo much as ever heard of the Name of *Johnſon*, which was the Name by which he went. In the next place, none of theſe Witneſſes prove, that the Biſhop was ſo bad that he could ſee no Company, till about the 16th or 17th of *April*; and it's very probable, that the Letters muſt have been dictated ſo long, if not longer, before the 20th on which they are dated; becauſe *Kelly* was to tranſcribe and put 'em into Cypher, which is a Work of Time and Care; and perhaps after all, they might be deſignedly poſt-dated, that the Biſhop finding himſelf going into a great Fit of the Gout, might have all that to plead which your Lordſhips have heard, if the Matter ſhould ever be called in Queſtion.

Upon all theſe Conſiderations, I cannot but think it very clear, that the Biſhop might have dictated theſe Letters: We are now therefore to examine, whether he did or no.

The firſt thing that brought any Light into this matter, was the ſmall Accident of a Dog being ſent from *France*, which, by the intercepted Letters appeared to be ſent to one that went by the Names of *Jones* and *Illington*. When Mrs. *Barnes* was examined before the Council, upon *Kelly*'s being taken up, it appears plainly ſhe was upon the Reſerve, and would confeſs nothing that ſhe thought might tend any way to hurt *Kelly*; but being ask'd about this little Dog, who it was for, ſhe readily anſwered, that *Kelly* had told her, it was for the Biſhop of *Rocheſter*; which ſhe has ſince confirm'd by Oath at the Bar of this Houſe. This little Accident, not ſuſpected at the time of the Diſcovery to be of any Conſequence, has given Occaſion ſince, to look into ſo many Circumſtances, as plainly bring the matter home to the Biſhop. And indeed, if all the Particulars in the intercepted Letters be compared, with thoſe things that are in proof with reſpect to the Biſhop, I believe your Lordſhips will be of Opinion, that they cannot all belong to any one Perſon in the World beſides himſelf. In the firſt place, ſince it's proved that *Kelly* wrote theſe Letters, the Perſon who dictated 'em muſt have been an Acquaintance of *Kelly*'s; it is confeſs'd on all hands that the Biſhop was ſo. In the next place, it is implied in one of the intercepted Letters, that the Perſon that went by the Name of *Jones* and *Illington*, was a Clergyman; ſo far ſtill agrees to the Biſhop. Again further, this Perſon is mention'd in all the intercepted Letters as a Perſon of great Conſequence and Credit, upon whoſe Advice the Party very much depend: And indeed, the very Air and Manner of writing the three Letters, plainly ſhew, that the Perſon who wrote 'em, thought himſelf

ſelf ſo; this alſo agrees with all the other Diſcoveries about the Biſhop: Were there no other Particulars but theſe, it will be hard to imagine that they could well belong to any other Perſon; but if we conſider further, that this *Jones* or *Illington* came to Town ſuch a Day of the Month, went out of Town ſuch another Day of the Month, came back again to Town ſuch another Day, was himſelf ſick at ſuch a time, that his Wife was ſick at ſuch another time, and that ſhe died at ſuch a time; all which are in Evidence with reſpect to the Biſhop; if we do, I ſay, conſider all theſe Circumſtances together, it will plainly appear, that they can belong to no other Man in the World but the Biſhop.

After this, I humbly apprehend nothing need be ſaid; however I beg Leave, juſt to mention ſomething relating to the Letter, that was taken upon the Biſhop's Servant; by the whole Air of which Letter, it looks, as coming from a Perſon who did not eſtem himſelf to be innocent; but who thought, that nothing could be Legally prov'd againſt him; and therefore there is not one Word of his Innocence in it, which is the firſt Thought that muſt naturally have come into the Head of any one that really was ſo: He writes wholly with the Air of a Man that had been uſed to Intrigues; ſpeaks of the Concern that his Friends ſhould have for him and the *Cauſe*; diſcourſes largely about the Kind of Evidence that was againſt him; takes notice in particular what cannot affect him; *If* (ſays he) *the Narrative* relates chiefly to* Neynoe's, Sample's, *and* Layer's *Affairs, ſo far it cannot affect me; for I never heard of the Names of either of the Three, till after this Plot broke out.* It is plain by theſe Words, that he did not then know what was in the Narrative againſt him; but he is very ſure, that neither *Neynoe*, nor *Sample*, nor *Layer* could affect him. Could an innocent Man have thus diſtinguiſhed, and could not they have affected him as much as any Body elſe, if he really was innocent? Nothing can affect ſuch a Perſon but Forgery, and that may come from any Quarter; but in the whole Letter he does not expreſs the leaſt Suſpicion of Forgery, and yet as I ſaid before, this is the firſt Thought that muſt naturally have come into the Head of an innocent Perſon; becauſe nothing but Forgery could do him any Harm. I would only juſt beg leave to hint at this one thing more; that as he ſays that theſe three Perſons could not affect him, becauſe he never knew 'em; ſo accordingly, they have not affected him, or ſaid any thing of their own Knowledge about him; which is one good Evidence, that what is ſaid againſt him is not forged but real.

* i.e. *Report.*

I am afraid that I have troubled your Lordſhips too long, tho' with a very imperfect Repreſentation of the Juſtice of this Bill, and therefore ſhall be ſhorter upon the next Head, which is the Expediency or Prudence of it.

Had there been what we call Legal Evidence againſt the Party concerned, Your Lordſhips, I take for granted, would not eaſily have gone into this extraordinary Method of proceeding; for tho' it cannot be doubted but that the Parliament have this Power, whenever they think proper to make uſe of it; yet, I do agree with noble Lords, that it is a Power not fit to be uſed, but where and when the publick Good requires we ſhould uſe it, which I humbly conceive is the Caſe at preſent. A moſt dangerous Plot againſt the Government has been diſcover'd; a great number of Letters and Papers relating to it, have been laid before the two Houſes of Parliament; theſe have been printed and publiſhed by Order of both Houſes: The Eyes, not only of our own Country, but of all *Europe*, are upon us, to ſee what we will do: Though the Evidence of a Plot in general, be as clear as the Light; and the Evidence againſt ſeveral particular Perſons very plain; yet, as our Laws are, it is not what we call Legal Evidence: The Parties concern'd will make no Confeſſion, and we have not the Methods uſed in all other Countries, to extort Confeſſion from them: What then? Shall we ſee our *King* and *Country* in Danger, and do nothing for them? Shall Conſpirators go on with total Impunity, only becauſe they are obſtinate, and artificially ſcreen themſelves behind the Law? I doubt, My Lords, that if this prove the Caſe, we ſhall appear ridiculous in the Eyes of all the World: That our Friends and Enemies both at Home and Abroad will think, that we have no Zeal for the Preſervation of our King and Government; and if once they do think ſo, your Lordſhips cannot but be all ſenſible, how this muſt encourage our Enemies and diſcourage our Friends, and bring us into that contemptible State, in which no Government was ever long ſupported.

But a Noble Lord has been pleaſed to obſerve, that the beſt way to ſerve the Government, is to do Popular things, and by that to procure the Love of the People. I perfectly agree in this with the noble Lord, and cannot but be humbly of Opinion, that this Government has done ſo, as far as it has been able: Our Religion has been preſerved; Juſtice has been equally adminiſtred to all ſorts of People; none of our Rights or Liberties have been invaded; we have liv'd at Peace at home, while many other Countries have ſuffer'd all the Miſeries of War; theſe are, or I am ſure ſhould be eſteem'd, Popular things: and if ſome other things, which might have been for the Good of the People, have not been done; it has been the Fault of thoſe that complain moſt, and not of the Government. And if there be Diſcontents now in the Kingdom, it's plain that the Foundation of 'em was laid long ago, by the Enemies to our preſent Happy Settlement: For I am perſwaded, that the Diſcontents were higher and greater within four Months after the King came to *England*, and ſhewed themſelves much more, in a number of rebellious Riots and Tumults, than any thing that appears at preſent; and yet nothing then could be objected to the Government, but that ſome Perſons were not preferred, who both before and ſince have made it too plain that they were not fit to be truſted.

But as it is the Duty of thoſe in Power, to do all the Popular things they can; ſo, I muſt beg leave to obſerve, that it is the Duty of all the Subjects, (and the Greater they are the more it is their Duty) to put the beſt Interpretation upon the Actions of the Government, that things will bear; not to miſrepreſent; not to put falſe Colours upon things; and much more not to invent Lies and Slanders, and diſperſe 'em up and down the Kindom, in order *to alienate the Affections of the People*: Theſe things have been done, and done with great Care and Diligence, and by ſome too, who would take it very ill to be called Jacobites. Theſe are the chief Cauſes of the Diſaffection among us, and indeed of all the Real Grievances we labour under. Is the King forc'd to put the Nation to Charges, to keep up a greater Number of Forces than otherwiſe would be needful? It is entirely owing to this Cauſe. Are our Debts not paid? Is our Credit not ſo good as we would be glad to have it? Let this artificial Raiſing of Diſcontents once ceaſe, and theſe things will quickly mend of themſelves. Indeed, were this a time for it, I think it might plainly be proved, that the Debts we labour under had never been contracted; but for this abſurd diſcontented Humour: Nay, it is to this, that we entirely owe the Danger we are in from this very Plot; for it's plain from all the Intelligence we have about it, that it was carried on upon the Confidence, that all diſcontented Perſons were Jacobites; and tho' the Conſpiraſators did in this greatly deceive themſelves; yet it's certain, that they built their Hopes upon this Foundation.

But it's further ſaid by the ſame noble Lord, that this extraordinary way of proceeding, will not procure Friends to the King; but will rather anger and provoke, and ſo hurt his Intereſt inſtead of helping it.

To this I anſwer, that I do indeed ſuſpect, that many People will be Angry; as I hear that the Jacobites through the Kingdom are: A plain Evidence this, that they do not think that the Friends of King *George* are worrying one another; for they would not be angry at that. Thoſe that moſt deſire to deſtroy our Liberties, are become, upon this Occaſion, the great Patrons of Liberty; as indeed they have been in a great meaſure ever ſince the Revolution, when any thing has been propoſed for the Support of the Government. No ſooner were their Schemes of Arbitrary Power in the Time of King *James* overturn'd, and a new Government ſettled which they did not like; but they, in order to deſtroy it, ſet themſelves againſt every thing that was neceſſary for its Defence, under the Colour of Liberty; that is, they deſired to have their own Hands as looſe as poſſible, to hurt it; and the Hands of the Government as much tied up as poſſible, that it ſhould not be able, either to hurt them, or defend it ſelf. Thus at preſent, they Clamour againſt the Additional Forces, tho' eſtabliſh'd by Parliament; and againſt all Methods, either to diſcover or puniſh the Conſpiracy. And they judge right in this for their Cauſe; becauſe, if they could have carried theſe Points to their mind, they might then be more free in carrying on their Plots, and with leſs Danger put them in Execution. For theſe Reaſons I take for granted, that all theſe People will be Angry; but I cannot but humbly be of Opinion,

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that it is much better they ſhould be Angry with us for Defending our ſelves; than that they ſhould, firſt ſneer at us, as Fools for neglecting our Defence; and then be able more eaſily to undo us.

As to others, that poſſibly may be diſpleas'd at what we are now doing, I would hope, that a little Time and Conſideration will ſet 'em right, and convince them, that it is not only Juſt, but (all things conſidered) Neceſſary to be done; becauſe, if the Parliament do, upon this occaſion, ſhew their Zeal in the Defence of the Government, it will animate and give Courage to the Friends of it, both at home and abroad. Foreign Powers will be apt to Court the Friendſhip of a Prince, at the Head of a mighty Kingdom; if they ſee, that he and his Poſterity are like to continue there: All the Affairs of the Kingdom, which reſpect them, will be manag'd with more Eaſe, with more Honour, and with leſs Expence; and they will be inclin'd, not to Foment, but to diſcover Plots, if they come to their Knowledge But on the contrary, if we give 'em any Reaſon to ſuſpect, that we look another way, they will quickly do ſo too, and ſtrive which ſhall be forwardeſt to help the Pretender to involve us in Blood and Ruin. And as to the Subjects at home, I would only obſerve, that all Mankind are apt to ſhew moſt Zeal for a Government, when they think it ſafe, and like to ſtand, and be able to protect them: But to ſuſpect the contrary, is a moſt dangerous Temptation to the Fidelity of Subjects, as has been ſeen by the Experience of all Ages. And therefore I hope, that your Lordſhips will, by your Unanimity and Zeal in this matter, effectually convince the World; that the Danger does and ſhall lie, in Oppoſing, and not in Defending the preſent Government.

I hope that what I have now been ſaying, *has convinc'd your Lordſhips*, both of the Juſtice and Prudence of this Bill; give me leave to obſerve, that your Moderation has been very great too, both in giving ſo full and fair a hearing, and in making the Penalties ſo much leſs than the Crimes deſerve.

It is now above a Year ſince the Plot was firſt diſcovered; a Plot of a moſt deſperate Nature, to ſeize the Perſons of the King and Prince, and to bring in a Popiſh Pretender upon us. The Execution of which, was to be begun by ſeizing the *Tower*, and attacking the City of *London* on all ſides; and was thence to ſpread it ſelf into all parts of the Kingdom. Lord! what Confuſion; what Murthers; what Plundering; what Burnings muſt this have caus'd? Whatever had been the Iſſue, the very Attempt muſt probably have occaſion'd the Sacking and Burning of this great City: The utter Loſs at once of all Publick Credit: The Murther of infinite Numbers of People: The Aſtoniſhment and Amazement, and Undoing of almoſt all, but of thoſe Vile Wretches who would have had the Plundering of all ſides: If it had gone on, how many of the Noble Lords that I now ſee, would have been before this in their Graves? But I forbear going any further in this Tragical Repreſentation, and deſire only to obſerve; that tho' it has been diſcovered above a Year, how very little of it we yet know; and I do Appeal to your Lordſhips Conſideration, who know the State of the World very well, whether there be any Country in it, either Bond or Free, which, had they diſcover'd but a fifth part of what we know of a Plot of this nature, would not in a Week's time have found means to get to the Bottom of it. However my Lords, I ſtill commend your Moderation; and do hope, that we ſhall never find Reaſon to repent of it, and that this little which is now doing, will be a Warning to Conſpirators, not to provoke further the Patience of an injured Nation.

I doubt not but upon this and all other Occaſions, your Lordſhips will be ready to ſtand by, a Wiſe, and a Good, and a Merciful Prince; and that you will, according to your Oaths, defend him, againſt all Treaſons, and Traiterous Conſpiracies whatſoever.

And in the laſt place, give me leave as a Chriſtian and a Proteſtant Biſhop to hope, you will do your beſt, that a Popiſh Pretender may never be ſet at the Head of this Proteſtant Church: One, who muſt think himſelf bound in Conſcience to deſtroy it, and inſtead of that pure Religion which we now enjoy, bring in horrible Superſtition and Idolatry, Nonſenſe and Tyranny; attended with all the ſad Calamities, which Popiſh Princes always have brought, and always muſt bring upon Proteſtant Countries.

FINIS.

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DEFENCE

OF THE LATE

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BY

Sr *CONSTANTINE PHIPPS* Knt,
One of His Lordſhip's Counſel.

Publiſh'd by His own Appointment; and in part actually Printed before His Death.

LONDON:

Printed for JONAH BOWYER, at the *Roſe* in St *Paul*'s Church-Yard. 1723.

Sir *CONSTANTINE PHIPPS's*

DEFENCE

OF

The late Biſhop of *ROCHESTER*, &c.

My Lords,

BY the Appointment of This Honourable Houſe, I have the Honour to attend Your Lordſhips, as Counſel for the Reverend Prelate, the unfortunate Priſoner at the Bar: And perſuade myſelf it will not be difficult to defend His Lordſhip from the heavy *Pains* and *Penalties* of This Bill; ſince the Counſel for it confeſs that it is ſupported *only* by *Circumſtantial* Evidence.

Bills paſſing into Laws for taking away Mens Liberties and Eſtates by *Circumſtances* only, are new. Convictions by Circumſtances were never heard of in Ages Paſt; and I hope will never be known in This, or Any which is to come: And tho' one of the Gentlemen ſaid that Circumſtantial Evidence is ſufficient at *This Time of Day*; I hope, the Law is the ſame at *This Time of Day*, as ever; and that the Lives and Fortunes of *Engliſh* Subjects will be as well protected and defended by *Your Lordſhips*, as they were by *Your Predeceſſors*.

The Securities, which the Laws have provided for our Liberties and Eſtates, and the Happineſs, that we cannot be depriv'd of them, but by full and legal Proof, are Advantages, which were obtain'd at great Expenſe of Blood and Treaſure, by Your Lordſhips Noble Anceſtors: And we doubt not but You will tranſmit Them to Poſterity as entire, as they have been continued down to Your Lordſhips.

The Law is the Rule of Men's Actions; And Perſons accuſed as Criminals for Facts committed by them, ought to be tryed by the Laws that were in Force *at the Time* of the Facts committed, *ſecundum Allegata & Probata*. But Laws made *Ex Poſt Facto*, to Puniſh Men for Facts which were not Offences when they were committed, render all things that are dear to *Engliſhmen* precarious; and for That Reaſon have been as often *condemn'd*, as they have been *made*.

The Charge againſt the Biſhop and Mr. *Kelly* are ſo interwoven; that I beg you will excuſe me, if, in my Vindication of Him, I urge any Thing, which I offer'd in Behalf of Mr. *Kelly*, when I had the Honour to attend Your Lordſhips as His Counſel: But I ſhall take Care to repeat no more than is Neceſſary.

My Lords, I am very far from denying, or conteſting, the *Power* of Parliaments as to Bills of *Attainder*; But I hope, I may have Leave to obſerve that ſuch a Power hath been very *rarely exerted*, unleſs upon *extraordinary* Occaſions, and in Caſes of *Neceſſity*: I hope too I may be permitted to ſhew, that the Caſe of My Lord Biſhop is not within Either of Thoſe Reaſons.

He never withdrew Himſelf out of the Kingdom; never fled from Juſtice, but was always amenable and forth-coming, ready to be

be try'd according to the uſual and ordinary Methods of Juſtice. And the Attainders of *Mortimer*, and the Earl of *Arundel*, in *Edward* III.'s Time, of Sir *Thomas Haxey* in *Richard* II.'s Time, and Others afterwards, were revers'd; becauſe the Perſons accuſed were forth-coming, and might have been brought to a Tryal according to the uſual Courſe of Juſtice. Wherefore, I hope the ſame Reaſons which prevail'd with Thoſe Parliaments to reverſe Thoſe Attainders, will have Weight enough with Your Lordſhips to prevent This Bill's paſſing into a Law.

The Parliament, at the Reſtoration, did not think fit to interpoſe their Legiſlative Authority even in the Caſe of the *Regicides*; but left ſuch of them, as were alive, and forth-coming, to the *ordinary* Methods of Juſtice, and gave them a *fair Tryal* for their Lives and Eſtates. The only remarkable Bill of Attainder, which hath been in ſome Ages (except of ſuch as were in *actual Rebellion*, or *fled* from Juſtice) was That of Sir *John Fenwick*. I own, I mention'd This Caſe on Behalf of Mr. *Kelly*; and it being a Caſe ſo material for My Lord Biſhop's Defence, I cannot in Juſtice to His Lordſhip omit making ſome Obſervations upon it: From which it will appear, that the *Reaſons* given for *paſſing* That Bill are the ſtrongeſt Arguments in the World *againſt* This.

The Preamble of Sir *John Fenwick*'s Attainder ſhew'd the Neceſſity of it: For the Preamble ſets forth, ---That Sir *John Fenwick* was upon the Oaths of *George Porter*, and *Cardel Goodman*, indicted of High Treaſon; That he obtain'd His Majeſty's Favour to have his Tryal delay'd from time to time, upon his repeated Promiſes of making *an ingenuous and full* Confeſſion: That ſeveral times were appointed for his Tryal; at one of which he had been actually try'd, had it not been for the Expectation of the Diſcoveries ſo often promis'd; That ſince the times appointed for his Tryal, *Cardel Goodman* one of the Witneſſes was withdrawn, ſo that he could not be had to give Evidence. And it appear'd upon the Tryal, that *Porter* had been tamper'd with, and had 300 *l.* paid him, and 200 *l.* more promis'd him, to go beyond Sea. This made the Preſumption very ſtrong, that *Goodman* was ſent away by ſome of Sir *John*'s Friends. So that there was an *Indictment* againſt him; *Two Witneſſes* were *ſworn* upon it, and *proved the Treaſon*; and *he promis'd* from time to time to *make Diſcoveries*.

Hath my *Lord Biſhop* been *indicted?* Hath there been any *Oath* made againſt Him? Did He ever *impoſe* upon his Majeſty or the Miniſtry, by *promiſing* to make any *Diſcovery?* Hath He *ſent away* any One that was *Witneſs* againſt Him? Since Theſe *Circumſtances* were *thought neceſſary* by the Parliament at That Time to *induce* Them to paſs *That* Act; and the preſent Caſe is not attended with *any One* of Theſe Circumſtances; This, We humbly conceive, is a Reaſon, why Your Lordſhips *ſhould not* paſs *This* Bill.

The *greater* the *Offence* is of which any Perſon is accuſed, the *plainer* and *clearer* the *Proof* ought to be: And My Lord *Coke* in his 4th Inſtitute, *Page* 37. (which I mention'd the other Day) ſpeaking of the Attainder of *Cromwell* Earl of *Eſſex*, by Parliament, ſays; "The more *high* and "*abſolute* the *Juriſdiction* of the Court is, the more *juſt* and *honourable* "it ought to be in its *Proceedings*, to *give Example* of Juſtice to *inferiour* "Courts."

The *Offence* charg'd on My Lord Biſhop is of the *higheſt* Nature; and This *Juriſdiction* the *moſt high* and *abſolute*: Therefore the *Proceedings*, without doubt, ought to be the moſt *Juſt* and *Honourable*.

The *Puniſhment* inflicted by This Bill, is the *greateſt* that can be, next to *Death* itſelf: For what can be worſe, than for a *Reverend Prelate* of ſuch *advanced Years*, and of ſo *infirm a Body*, to be *baniſh'd* into another Country, and be forc'd to *ſeek his Bread in deſolate Places?*

The

The Puniſhment is ſtill much ſeverer to *His Lordſhip*; who hath ſaved Nothing to ſupport Himſelf: For his eminent *Hoſpitality*, and his extenſive *Charity*, tho' they have fitted and prepared Him to live in another *World*, yet have diſabled Him from ſubſiſting in another *Country*: There He will Himſelf want That *Charity*, which He ſo liberally beſtow'd upon Others; and muſt beg upon his Crutches, or Starve.

As to the *Evidence* offer'd againſt His Lordſhip, I humbly apprehend the *Proof* would not be ſufficient *at Law* to ſupport an *Indictment* for the *loweſt* Miſdemeanor. And will Your Lordſhips, in Your Great *Wiſdom* and *Juſtice*, convict a *Lord of Parliament*, a *Member of Your own Body*, and ſubject Him to ſuch *ſevere Puniſhment*, upon *Evidence*, that at Law would not be ſufficient to convict the *meaneſt Subject* of the moſt *minute Treſpaſs*?

This, I humbly apprehend, will appear to be the Caſe; when the *Charge* againſt my Lord Biſhop, and the *Evidence* to ſupport it, have been conſider'd.

The Bill recites, "That there was a deteſtable and horrid Conſpiracy "for invading his Majeſty's Kingdoms with Foreign Forces; for raiſing a "Rebellion; for ſeizing the Tower, and City of *London*; and for laying "violent Hands upon his Majeſty's moſt Sacred Perſon, and upon his "Royal Highneſs."

As to the *ſeizing the Tower, and the City*, and *laying violent Hands on the King and Prince*; Neither of *Theſe* Crimes is charged upon My Lord Biſhop. But the Charge againſt His Lordſhip is, that *He hath been deeply concern'd in forming, directing, and carrying on, the wicked and deteſtable Conſpiracy, by traiterouſly conſulting and correſponding with divers Perſons to raiſe an Inſurrection within This Realm, and to procure Foreign Forces to invade This Kingdom; and intending to raiſe a Rebellion, at the time of the Elections; and when the King went to* Hanover; *and at the Breaking up of the Camp.*

As to the firſt, *viz.* The *ſending for Foreign Forces*; The Biſhop is not charged with being *privy* to any One of the three *Memorials*: For *Neynoe* ſays, *He* wrote them, and they were dictated to Him by *Kelly*, and *Watſon*, whom He ſuppos'd to be the Earl *Mariſhal.*

As to the Charge of *raiſing a Rebellion* at the Time of the *Elections*; 'tis founded on a Letter, Sign'd 1378, and directed to Mr. *Jackſon*; which the *Report* ſays the Committee have *good Reaſon to believe* was from the Biſhop of *Rocheſter* to the *Pretender.*

The Letter ſays, "Notwithſtanding This Opportunity is elapſed, I "agree with You, another may offer before the End of the Year." And the Obſervation made upon it is, That it was wrote the 20th of *April*, when moſt of the *Elections* were *over*: So conſequently the *Opportunity* was *elapſed.*

The Letter of the 20th of *April* is ſuppos'd to be wrote to the Pretender at *Rome*; It ſuppoſeth a Letter to the Pretender had been wrote, taking Notice that an Opportunity was elapſed at the Elections; and that an Anſwer had been made to That Letter by the Pretender, that Another may offer before the End of the Year: Which muſt be at leaſt *two Months* before the Date of the Letter; and That was before the *Elections* were *begun.*

As for raiſing a Rebellion, when the *King went to* Hanover; It is inferr'd from *dark Paſſages* in Letters of the 20th of *May*, 1722, *N. S.* 9th of *May*, *O. S.* and 10th of *May*, *O. S.* which are ſaid to have paſs'd between *Dillon*, or his Secretary, and *Kelly.* And by comparing Thoſe Paſſages, You will obſerve, what Foundation there is for ſuch a Charge.

In the Letter of the 9th of *May*, *O.S.* 20th *N. S.* *Quitwell*, ſuppos'd to be *Dillon's* Secretary, writes to *Baker*, ſuppos'd to be *Kelly*, "That if "This Poſt hath not brought an Addition of Three to the Six, formerly "come

" come from *Repney*, it is eaſy for *Mrs. Jones* to ſee, what is ſtill wanting " for the Purchaſe She intends to make."

In the Letter of the 10th of *May*, *O. S. Hatfield*, who is ſuppos'd to be *Kelly*, writes to *Howell*, who is ſuppos'd to be *Dillon's* Secretary, "That " the King intends to ſet out early next Month; if they could then com- " paſs Barrels enough, the ſooner the Wine comes, the better; *Jones* " promiſes to be a good Cuſtomer."

From hence, and from what *Pancier* ſaid *Skeen* told him, 'twas inſinuated, that great Foreign Forces were to be brought in for the Pretender; That great Sums of Money were contributed for That Purpoſe; and that Thoſe Sums were under the Management of the Biſhop of *Rocheſter*; and all this, becauſe *Quitwell* tells *Baker*, if the laſt Poſt did not bring an Addition of three to ſix, Mrs. *Jones* may ſee what is ſtill wanting for the Purchaſe ſhe intends to make.

Now ſuppoſe, by *Quitwell* and *Howell* are meant *Dillon*'s Secretary; and by *Baker* and *Hatfield*, *Kelly* is intended: And ſuppoſe, that by the *Addition of* three to ſix, is meant a *Remittance of Money*; by *Wine* are meant *Soldiers*; and by Mrs. *Jones* is meant my Lord Biſhop of *Rocheſter*: Yet can what *Dillon*'s Secretary writes to *Kelly*, or what *Kelly* writes to *Dillon*'s Secretary, affect the Biſhop of *Rocheſter*? If It can; it is in the Power of *any two Men*, one reſiding *here*, and the other *beyond Sea*, to take away the Life of *any Man* breathing. But ſuppoſe we can make it appear, as moſt certainly we ſhall, that by Mrs. *Jones cannot* be meant the Biſhop; then what becomes of This Part of the Charge?

The next thing to ſupport This Charge, is, a Paſſage in an Extract of a Letter dated the firſt of May, written from *Quitwell* to *James Baker*; in
Rep. 47. A. App. D. 17. which 'tis ſaid, that "Mrs. *Jones* cannot take a better Time to have *him-* " *ſelf* fitted with an eaſy Saddle, *&c.*" If an Extract of a Letter can be of any Weight, and the Conſtruction put upon it is to be allow'd; then the *Biſhop is* turn'd *General*, or at leaſt a *Colonel*. For by *Neynoe*'s Information and *Plunkett*'s Cypher, *Saddlers*, and *Saddles*, are *Iriſh Soldiers*, and *Regiments*: So the Biſhop is repreſented as undertaking to raiſe a Regiment of *Iriſh* Soldiers, and to mount on Horſeback himſelf to command them.

As to the Third thing charged, which was, to raiſe a Rebellion *at the Breaking up of the Camp*; there is no *Pretence* of *Evidence*. So that, upon the whole, there do's not appear to be any Pretence for That Part of the *Preamble* to the Bill, which chargeth the Biſhop with having been *deeply concern'd in forming, directing, and carrying on, the Conſpiracy.*

The next thing charged againſt His Lordſhip, is, That he was *concern'd in a Correſpondence Abroad, and ſome Tranſactions at Home, for bringing in the Pretender.*

Now as to This, I would obſerve, that there is *not one Witneſs* againſt His Lordſhip of any criminal Act; that tho' *all his Papers have been ſeiz'd*, yet there appears not any *Letter*, or *Paper*, under *his Hand*, of a criminal Nature; nor any Letter *prov'd* to be *written* or *receiv'd* by Him, which is criminal: Neither is there any Charge of any *Meeting* or *Conſultation* with any Perſons for carrying on This Conſpiracy. Indeed He is mention'd as a Member of a Club, call'd the *Burford-Club*, of which the Earl of *Orrery* was ſaid to be Chairman; Which Club (as I apprehend) was never heard of 'till *Layer*'s Tryal. This Accuſation *I know* to be *falſe*; and never met with *any one* that *believed* it: Therefore ſhall not trouble Your Lordſhips with any farther Obſervations upon it, than juſt to take Notice, that tho' He who made the Liſt hath join'd *Me* with Perſons of great Quality and Honour; yet I preſume to ſay, that my Profeſſion in the Law, as well as my Religion, has given me ſuch a Senſe of my Duty, that no Perſons whatſoever are great enough to draw me into a Plot againſt his Majeſty and the Government.

I beg

I beg Leave to obſerve that This Charge is founded, partly upon the *Hearſay* of *Pancier* and *Neynoe*; and partly upon the three Letters dated the 20th of *April*, 1722.

As to the *Hearſay*-Evidence; *Pancier* depoſeth, That *Skeen* TOLD HIM, that the Biſhop of *Rocheſter* and Lord *North and Grey* had the principal Direction of the Conſpiracy; That 200,000 *l.* had been raiſed by Contribution, and was put into the Management of the Biſhop; and that it was call'd the *Military Cheſt*. Now can This be *Evidence* in an *Indictment*, or *Action*, for the moſt *minute Treſpaſs*, or in *any Caſe?* Can it be imagin'd that *ſo much Money could be* raiſed among the *Jacobites?* Or that ſuch a Sum could be *raiſed*, and not *one Contributor diſcover'd?* Can it be imagin'd that ſuch a Sum ſhould be *entruſted* with *One Man?* Or that *My Lord Biſhop* would *be That Man*, who would have the *Care* and *Trouble*, and run the *Hazard*, of ſuch a Sum? To which it may be added, that *Skeen*, the *only* Perſon *living*, who *by any Perſon living* is *ſaid to have ſaid* This, is now in Cuſtody, ready to be examin'd upon *Oath*, and *denies every Word of it*.

As to *Neynoe*'s Examinations, He ſpeaks only what *Kelly* TOLD HIM; and can what *Kelly* told *Him* affect the *Biſhop?* Beſides, none of his Examinations are *upon Oath*, or ſo much as *ſign'd* by Him; (whereas the Examination of *Goodman*, that was given in Evidence againſt Sir *John Fenwick*, was *upon Oath:*) All of Them appear to be taken *after he was in Cuſtody*; under great *Apprehenſions*, and *Terrors*; Nay it appears that *One of Them was taken the Day before he drown'd Himſelf:* And moreover, that only *One of Them* was read, which was extracted out of *Three* Examinations mark'd, *A*, *B*, *C*, and ſaid to contain the Subſtance. We deſire *all* the *Three* Examinations may be produced, and read; and then it will appear, Whether That One contains the whole Subſtance; or whether there be not *ſome Things* very material *omitted:* And it will likewiſe appear, that there are ſuch *Inconſiſtencies* in Them, as will take off their Credit. For in one Place He ſays, He ſaw *Kelly* make Uſe of the Cyphers; and that *Kelly* own'd *with great Freedom* They were for carrying on a Correſpondence with the Pretender and his Agents; And yet in another Place He ſays, That *Kelly* never *open'd himſelf* as to the Plot now on Foot; That indeed He had ſeen ſeveral Letters from *Paris* and other Places, but they contain'd *nothing material:* So that it muſt be ſuppoſed, either that there was no Treaſonable Correſpondence carry'd on by *Kelly*; or that *Neynoe* was not ſo great a Confident of *Kelly*'s as He pretended.

Neynoe ſays, He drew *Three* Memorials; and the laſt was in *December* 1721, to the *Regent* for Five Thouſand Men; That all the Memorials were drawn by the Order of, and dictated by, one *Henry Watſon*, whom he did not know; but took to be the late *Earl Mariſhal*; That *Henry Watſon*, whom he took to be *Earl Mariſhal*, was in *England* all laſt Spring, and that he lay with him ſeveral Nights.

'Tis very extraordinary that the *Earl Mariſhal* ſhould truſt a mere *Stranger* to draw three *Memorials*, and one of them *for Five thouſand Men to invade the Kingdom*; and that afterwards he ſhould *lie with Him* ſeveral Nights, and *not know who He was*.

In one of his Examinations he ſays, The *Heads* of the Memorials were given *Him* by *Kelly* and *Watſon*: In another he ſays, they were *all drawn* by *Watſon*: And 'tis obſervable that the *rough Draught*, or a *Copy* of any one of Them, is not produc'd; which certainly, he that intended to turn Evidence, and ſo ſoon after became an Informer, would have done, if there had been any Such.

The Committee are pleas'd in their Report, *Page* 38, to take Notice, that *Neynoe ſaid*, *Kelly told Him*, that a *Lord of the Council* gave the Biſhop *Notice* of his being to be taken up, ſome Days before it happen'd; and

 are

are pleas'd likewiſe to ſay, that he afterwards confeſſed, (as They were inform'd) that in That, and other his Examinations, he endeavour'd all he could to *create Diffidence and Suſpicions among his Majeſty's Servants.* And what *Credit* can be given, after This, to One, who had ſo *little Regard to Truth*, as to ſay *any thing*, tho' never ſo *falſe*; to ſo *wicked a Purpoſe*, as to create a Miſunderſtanding among his Majeſty's Servants? Eſpecially if one conſiders how probable it is, that the *Remorſe He had upon his Conſcience*, occaſion'd by the Evidence he had given, and his Dread of the *Shame* of being *forc'd*, when he came *upon his Oath*, to *deny* what he had *ſaid* when he was *not upon his Oath*, were the Reaſons of his making away with Himſelf: And we ſhall call ſome Witneſſes, who will give a full Account of Him.

We ſhall call One, who but lately depos'd before Your Lordſhips, that *Neynoe* told Him, he had *ſaid* ſeveral things to *a great Man*, which he neither would, nor could *ſwear* without being perjur'd.

I moſt humbly beg Your Lordſhips Pardon, for being ſo particular in a Matter, which I had ſo lately an Occaſion to mention: But This is the Hinge, upon which the Weight of the whole Charge againſt the Biſhop turns; and therefore I doubt not but Your Lordſhips will excuſe me.

The next Charge againſt my Lord Biſhop ariſeth from *three Letters*, dated the 20th of *April* 1722. One ſigned *J. Jones*, *innuendo* the Biſhop; to *Chivers*, *innuendo Dillon*: The ſecond ſigned *Illington*, *innuendo* the Biſhop; to *Muſgrave*, *innuendo* Lord *Marr*: The third to *Jackſon*, *innuendo* the Pretender; and ſigned 1378, *innuendo* the Biſhop. Theſe Letters are ſaid to be wrote by *Kelly*, and dictated by the Biſhop.

Now as to Theſe Letters, I beg Leave to obſerve there is *nothing Criminal* appears to be in any one of them: But then 'tis objected, that Two of the Perſons are attainted of *Treaſon*, and are Agents of the *Pretender*; and 'tis High Treaſon to write to Them: And the Third is the *Pretender Himſelf.*

Suppoſing *Chivers* were *Dillon*, and *Muſgrave* were *Marr*; yet Writing to Them in *private* Matters, not *criminal* in Themſelves, nor relating to the Pretender, is not Treaſon.

But how comes the Lord *Marr* to be an Agent for the Pretender? He *quitted* the Pretender's *Service* many Years before; and from the Time of quitting his Service, till after the Date of Thoſe Letters, had a Penſion from his preſent Majeſty. I believe the Counſel for the Bill, and all Mankind, will be at a Loſs to tell by what Law Writing to One, who hath quitted the Pretender's Service ſo many Years, and who hath ſubſiſted ever ſince by a Penſion from his Majeſty, can be an Offence.

Indeed, if it be proved that *Jackſon* is the Pretender; I admit, Writing to Him is Treaſon: But if it be proved (as it will beyond all Diſpute) that by *Jackſon* neither *is*, nor *can be* meant the Pretender; and that my Lord Biſhop neither *did*, nor *could*, write or dictate any one of Thoſe Letters; then the whole Charge againſt my Lord Biſhop, founded upon Thoſe Letters, falls to the Ground.

The next Thing I would obſerve, as to Thoſe Letters, is from the Report, *Page* 42. where the Committee are pleas'd to obſerve, that the Letter to *Chivers* is, great Part of it, out of Cypher; which ſeems to ſhew that the other Part was *in* Cypher. Therefore it was very Neceſſary, I think, to have *printed* the Letters in the *Cyphers* and *Characters*, in which they were *written*; and alſo *as they are decypher'd*: Then the Perſons accus'd would have had an Opportunity of employing Men skill'd That Way, to ſee if they were *rightly* decypher'd: This was done in *Coleman*'s Caſe.

The *French* Papers, in the *Appendix*, are printed firſt in That Language, and then as they are Tranſlated; which was not ſo neceſſary as

Printing

Printing the Letters in *Cypher* in This Caſe: Becauſe almoſt every one underſtands *French* enough to tell, at firſt Sight, whether a *French* Letter be rightly tranſlated; but 'tis impoſſible for a Man of the greateſt Skill in the Art of decyphering, to tell, upon a ſudden at the Bar, whether a Letter be rightly decypher'd: So that all a Man hath in the World is to depend upon the Skill and Integrity of the Decypherers: Nor are they Infallible; for the Witneſſes who decypher'd the Letters, admit, that there are ſome Words in them which they could not decypher; and Thoſe Words may give a Turn to the whole Senſe of the Letters. Nay Mr. *Wills* ſaid, that one of the Numbers he could not decypher ſtood for *two Words*: He was likewiſe pleas'd to ſay, it was *impoſſible* that the Number he could not decypher could make an Alteration in the Senſe; which is very extraordinary for a Man to *ſwear*: But if *one* Word could not make an Alteration in the Senſe, ſurely *two might*.

The Writing Theſe Letters is charged upon *Kelly*; which cannot affect my Lord Biſhop, unleſs they were dictated by Him, or written by his Direction, or Privity; of which there is no *Pretence* of Proof. And therefore I ſhall next offer to Your Lordſhips ſome Obſervations upon the Arguments and Circumſtances alledged to ſupport This Charge.

It is obſerved in the *Report*, that the Perſon who wrote Theſe Letters, ſpeaks of himſelf as being in *ill Health*, in *great Pain*, under ſome ſad and *melancholy Circumſtances*, which he expects will ſoon blow over; and from thence *'tis* inferr'd it muſt be the Biſhop, becauſe his *Wife* was then Ill, and *died in ſix Days after*; and that he himſelf was at That time afflicted with the *Gout*: One of the Gentlemen, who was Counſel for the Bill, ſaid, Theſe were Circumſtances, that did not happen to *any two Men* in the World at That time: And give Me Leave to inſtance one other Circumſtance, which, I believe, did not happen to any one Man in the World; which is *writing a Letter of Politicks*, when *his Wife lay a Dying*.

Why Theſe Circumſtances muſt neceſſarily intend the *Biſhop*, more than *any other* Perſon that was *ſick*, and under *Misfortunes*, I cannot apprehend. That *ill Health* muſt neceſſarily imply the *Gout*; and that it muſt be intended, that *no Man* had the Gout *the 20th of April*, but the *Biſhop*; that *melancholy Circumſtances* neceſſarily imply a Man's *Wife being ſick* or *dying*; and that *no Man* had a Wife ſick or dying, but the *Biſhop*; is, in my humble Apprehenſion, a new Way of arguing.

Another Way of proving Theſe Letters to be wrote by the Biſhop, is by the Names and Figures ſubſcribed. For one Letter is ſubſcrib'd, *T. Jones*, and another Letter is ſubſcrib'd, *T. Illington*: And the Report obſerves, that where-ever *Jones* and *Illington* are named, the Biſhop is to be underſtood. But *why* the Biſhop is to be underſtood by Thoſe Names, *non conſtat*; Nor is there any *Pretence* of *Evidence*: And if we ſhew (as we infallibly ſhall) that by Thoſe Names the Biſhop *could not be meant*, and that He *could not write*, or *dictate Thoſe Letters*; then the *Inferences* againſt the Biſhop *from Thoſe Letters*, and from the *Subſequent Correſpondence* under *Thoſe Names*, become of no Force or Weight.

A Third Letter is ſubſcrib'd, 1378; which the *Decypherers* ſay denotes a Perſon, whoſe proper Name begins with an *R*. And the Report is pleas'd to inferr, that *it muſt be* the Biſhop of *Rocheſter*. Now why 1378 denotes a Perſon, whoſe Name begins with an *R*, the *Decypherers* only know: And We are as much at a Loſs to know, why by a Name beginning with *R*, muſt be intended the Biſhop of *Rocheſter*. If That Number appear'd to denote a Name beginning with *R*, and if no Name began with That Letter, but the Biſhop of *Rocheſter*'s; there would then, I confeſs, be ſome Weight in the Obſervation.

That

That *Jones* and *Illington* are not the *ſame Perſon*, appears from the Letter of the 10th of *May*, from *Hatfield* to *Howel*; where, within the Compaſs of *two Lines*, they are *diſtinguiſhed*. For in one Line he ſaith, *Jones* promiſeth to be a good Cuſtomer; and in the next Line but one he ſaith, *Illington* is gone into the Country; which plainly ſhews them to be diſtinct Perſons. Beſides, in the Papers mention'd concerning the Duke of *Norfolk*, His Grace is ſeveral times denoted by the Name of *Jones*: In *Layer*'s Liſt, Sir *William Ellis* is deſcrib'd by That Name; and in *Plunket*'s Liſt *Jones* ſtands for the *German*.

The Evidence to prove *Jones* and *Illington* to denote the Biſhop, and the Intimacy between the Biſhop and *Kelly*, is the *Preſent* of a Dog called *Harlequin*.

The Evidence ſtands Thus, --- *Rep.* 40. *E.* 35. " *Hatfield*, who is " ſuppoſed to be *Kelly*, in his Letter of the 30th of *April* to *Howel*, who " is ſuppoſed to be *Dillon*'s Secretary, writes Thus. Mrs. *Jones* died " laſt Week; pray preſent my Reſpects to Mr. *Muſgrave* (meaning *Marr*) " and let him know, I receiv'd the Preſent ſent by the young Lady; " That he had a Leg broken in the Journey: However I will take all the " Care imaginable of him; and inform Mr. *Jones* of it, to whom I know " any thing from That Quarter will be very acceptable. "

Hatfield, in his Letter to *Muſgrave* of the 7th of *May* 1722, ſays; Mrs. " *Illington* is in great Tribulation for poor *Harlequin*: However his " Obligations to the Lady are as great, as if he had come ſafe. "

From Theſe Letters 'tis inferr'd, that by *Jones* and *Illington* the Biſhop is meant; and that a young Lady ſent the Dog to *Kelly* as a Preſent for the Biſhop: And 'tis urged, that Mrs. *Barnes* in her Examination of the 23d of *May*, ſays, The Dog was not deſign'd for Her, but for the Biſhop of *Rocheſter*; That *Kelly* told her, the Dog was for the Biſhop; and that *Kelly* promiſed to get the Dog for Her, from the Biſhop, in Caſe it did not recover its Lameneſs.

It is admitted, that Mr. *Kelly* brought ſuch a Dog from *France*; that Mrs. *Barnes* had it; and that its Leg was broken: But that it was deſign'd for the Biſhop, or that the Biſhop ever had, or ſaw it, there is no *Pretence* of *Proof*; And my Lord Biſhop utterly denies it; and Mr. *Kelly* hath ſolemnly deny'd it to your Lordſhips; And inſtead of its being a Preſent from a young Lady to the Biſhop, Mr. *Kelly* ſays he bought it of a Surgeon at *Paris*, to give it to Mrs. *Barnes*.

There is one Expreſſion in the Letter of the 7th of *May*, which is remarkable; and, in my humble Opinion, enervates and deſtroys the Force of all Thoſe Letters relating to the *Dog*: For it was written four or five Days *after the Biſhop's Lady was bury'd*; and it ſays, " Mrs. *Illington* is " in great Tribulation for poor *Harlequin*: " Mr. *Kelly* was ſuppos'd to write That Letter, and was ſuppoſed to be a Friend of the Biſhop's; and could a *Friend*, could any Man of *Common Senſe*, be guilty of ſuch a *fooliſh* and *ridiculous* Expreſſion? Could any Man ſay of one of my Lord *Biſhop's Character*, who was in the *utmoſt Affliction for his Lady*, that He was in *great Tribulation* for the *breaking of a Dog's Leg*? 'Tis evident, he who wrote That Letter, *did not know* the Biſhop's *melancholy Circumſtances*: 'Tis likewiſe well known, that the Biſhop *never loved a Dog*, nor ever *had One*.

The next Method of *proving Letters* upon the Biſhop, is by *Similitude and Compariſon of Hands*; Not by *comparing* any Paper *written by Him* with *any other Writing*; but by *producing* a Letter *ſuppos'd to be written* by Mr. *Kelly* in *Auguſt*, and by proving that the *three Letters* written in *April*, were *open'd* and *copy'd*, and *ſent forward*; and that *Thoſe Letters* were of the ſame Hand with *That produc'd*.

It

It was to be hoped, that, ſince Mr. *Sidney*'s Caſe, the *Evidence by Similitude of Hands* in *criminal* Proſecutions would never have been offer'd: He was convicted upon *ſuch* Evidence, and for *That Reaſon* his *Attainder* was *revers'd* in Parliament. And therefore, I humbly hope Your Lordſhips will not in your *Legiſlative Capacity* admit That to be Evidence in *This* Caſe, which in *the ſame Capacity* You were pleas'd to condemn in Mr. *Sidney*'s.

In 1695, *Crosby* was indicted for Writing Treaſonable Letters; and the Evidence was Similitude of Hands; which Evidence was *diſallow'd* by the Chief Juſtice *Holt*, and *Crosby* was *acquitted*.

In *Francia*'s Caſe, My Lord Chief Baron *Bury* declared Similitude of Hands to be *no Evidence*: And if it was not admitted in *Thoſe* Caſes, where *Papers* were *produced*, and *proved to be of their own Hand-writing*, and the Papers with *which they were charged* were produced, and *compared* with Thoſe other Papers; we preſume, Your Lordſhips will not allow it in *This* Caſe, where it is *carry'd farther* than ever it was attempted before.

The Proof, as to This Point, ſtands Thus. ---Three *Clerks of the Poſt-Office* ſwear, that the 20th of *April* 1720, *Theſe three* Letters were open'd; That they took Copies of them, and ſeal'd them up again, and ſent them forward; That *four Months* after, *another Letter* came to the Office, which was ſtopp'd: *That* is produc'd; and They all ſwear, they *believe* the *Three Letters* were the *ſame Hand-writing* with the *Letter produc'd*. Now that Men, who *never ſaw* a Hand *but once*, and thro' whoſe Hands *ſo many* Letters paſs in a Month, ſhould be able to *ſwear*, that three Letters, which were ſent in *April* 1720, were of the ſame Hand-writing with a Letter which was ſtopp'd *four Months* after, is ſtrange and incredible.

I beg Leave farther to obſerve, that the Clerks of the Poſt-Office own they *did not compare* the *Copies* of the three Letters with the *Originals*: And was ever a Copy allow'd to be read; unleſs the Perſon who produced it ſwore that he compar'd it with the Original, and that 'twas a true Copy?

It is remarkable, that *Clark*, one of the Poſt-Office, ſaid, It was *impoſſible* to write a Hand, that had *any Reſemblance* to Thoſe Letters; but yet, he ſaid, the *Figures* bore a Similitude to the *Hand-writing*: So that *one* Hand cannot be like *another*; but *Figures* may be like a *Hand-writing*.

It is alſo obſervable, that the Letter produced is proved to be *Kelly's* Hand-writing, only by *Hutchins* the Meſſenger; who ſays he had him in his Cuſtody a Week, and ſaw him write ſeveral Letters: And by *Malone*; who proves Mr. *Kelly's* Hand by a Superſcription in *French*, and yet owns he *cannot read French*: Whereas, *we* ſhall *prove* by *three poſitive Witneſſes*, that This *is not* his Hand: Beſides; they might have produced the Letter which he wrote to my Lord *Townſhend*, which is *admitted* to be his Hand.

We ſhall likewiſe prove by ſeveral Witneſſes, That *at the Time*, when the three Letters are *ſaid to be written*, the *Biſhop* was at *Bromley*, and *ſo lame* with the Gout, that he could not *ſtir Hand or Foot*; that his *Lady* was *dying*; that *no Perſon* was *admitted* to him, but two or three Servants; and that Mr. *Kelly* was *not* at *Bromely* at *That time*, nor for *three or four Months before, or after*. And therefore, 'tis impoſſible Thoſe Letters ſhould be written, or dictated, by the Biſhop.

The Evidence of *Wood* the Coachman confirms This. For he ſwore, that he never ſaw Mr. *Kelly*, 'till he was carry'd to ſee him in the Tower; and that *Kelly* was not at *Bromley*; that no *Stranger* was at *Bromley* from the 12th of *April*, till after the 26th, when the Biſhop's Lady died; and that he *muſt* have *known it*, if there had; that the Biſhop *never ſent the Coach-*

for *Kelly*, or any other Perſon in *Berry*-Street, or any Place near *Pall-Mall*; ſo that by This the Examinations of *Elizabeth Levet* and *Neynoe* are quite deſtroyed.

But 'tis objected, that a Man might put his Horſe at an *Inn*, and come to ſee the Biſhop; and *Wood* not know it. Can it be imagined, that *Kelly*, who is ſuppoſed to be ſo particular a Friend of the Biſhop's, would leave his Horſe at an *Inn*? But we ſhall examine other Witneſſes to This.

It was objected, that on the 10th of *June* the *Bells rang*; and the Servants had *Roſes*. But it appears, moſt of them were *red* Roſes: And if it ſhould be *criminal* to ring the Bells on the 10th of *June*; we ſhall ſhew, that the *Biſhop knew nothing* of the Ringing of the Bells, or of the Roſes.

In the Report, *Page.* 50. the Committee of the Commons are pleaſed to take Notice; "That on the 11th of *June*, *Kelly* ſends his Friends at "*Paris* an Account of his late Misfortunes; and after complaining of the "Neglect in not bailing him out ſooner, ſays, Your Old Friend *Rig*, "indeed, offer'd all that could be expected from the poor Man;" and infer, "That by *Rig* is meant the Biſhop of *Rocheſter*.

Can it be imagined, that *Kelly* would call the Biſhop *Gerrard's* old *Friend*; who, 'tis not *pretended*, ever *knew* him, or *ſaw* him? And if *poor Man* be taken by way of *Contempt*; can it be imagined that Mr. *Kelly*, a Gentleman of That *good Senſe*, and *Breeding*, would uſe *ſuch an Expreſſion* of my Lord Biſhop? If Theſe Words are taken in the *literal* Senſe, 'tis as improbable; for the Biſhop was not taken for a *poor Man*: Beſides, how could He, who had 200,000 *l.* Contribution-Money, and had the *Command of the Military Cheſt*, be ſaid to be *poor*? And I dare ſay, there is Nobody but believes, that if my Lord Biſhop would have intermeddled on Mr. *Kelly*'s Behalf, he had Intereſt enough to procure whatever Bail *Kelly* wanted: And therefore I apprehend, that *Rig* cannot be intended to be the Biſhop.

Indeed, *no Credit* can be given to *Cant-Names*; for the *ſame Names* are us'd for *ſeveral Perſons*: As *Laws* in *Plunket's* Cypher ſtands for *Marr*; and in the Cypher found on *Dennis Kelly*, it ſignifies Mr. *Cæſar*. *Hawksby* in *Plunket's* Cypher ſtands for King *George*: And in the Report, 62. there are Compliments from the *Pretender* and his *Spouſe* to *Hawksby*; which, I preſume, they did not mean for his Majeſty. *Jones* is uſed many times for the Duke of *Norfolk*. It is uſed for Sir *William Ellis*; and it is alſo uſed for the *Germans*; As I before obſerv'd.

That *Jackſon* cannot mean the Pretender, is plain. *App. E.* 30. A Poſtſcript in the Letter from *Quitwell* to *Vernon* ſays, "Mr. *Chivers* adviſes, that "the Money you mention, in *Clinton's* Hands, ſhould be equally divided "between *Medly* (meaning the late Duke of *Ormond*) and *Jackſon*, meaning the Pretender." Now, would Any one devoted to the Pretender's Intereſt put *Ormond* before the Pretender? *Jackſon* is put for the Pretender only in *Plunket's* Liſt: And yet 'tis obſervable, that *Plunket* in all his Correſpondence never calls him *Jackſon*, but *Joſeph*, or *Jephſon*: And in the voluminous Correſpondence charged on *Kelly*, He is not once called *Jackſon*; but the uſual Names are *Jephſon* and *Joſeph*.

As for the Letter to *Dubois*, it ſeem'd at firſt to be a Letter written from *France* TO the Biſhop, by the Name of *Dubois*; and after a Month's time they find it to be a Letter written BY the Biſhop. If ſo; *Writing* a Letter, and *not ſending* it, can be no Offence. But how comes the Biſhop to keep That Letter *ſeal'd*, which He had written *ſeven Months before*? The Writer of That Letter owns, He had receiv'd One from *Dubois* two Months before, by Mr. *Johnſon*; which was the Name *Kelly* went by: And 'tis very ſtrange, that the Biſhop ſhould be ſo weak, as to mention the *Name* of the very Perſon, who, 'tis ſaid, uſed to write

his

his Letters, and by whom He was ſuppos'd to carry on his Correſpondeſce. If it be preſum'd that *He* wrote This Letter; it muſt alſo be preſum'd, He *was out of his Senſes*, when he did it.

That Letter was not ſigned, and was dated the 16th of *Dec.* but no Year; tho' they have put the Year 1721 to it. For a Month together they never thought the Letter to *Dubois* to be the Biſhop's Hand; tho' they had ſeveral of his Letters. As to the Obſervation made by one of the Gentlemen, that the Letter to *Dubois* was ſeal'd by a *particular Seal*, and not the Seal with which he ſealed ſuch Letters, as He *intended all the World ſhould ſee*; That Gentleman would do well to let us know, *what* Letters were written by the Biſhop, which He intended all the World ſhould ſee.

That *ſo many* Letters were written *before* 1712, and ſo *few*, *ſince*; was occaſion'd by His Lordſhip's great Correſpondence about Matters of *Learning at* That time, and his being *from* That time often afflicted with the *Gout*, ſo that he could not write many Letters, and conſequently receiv'd but few. Beſides; He was made Biſhop in 1713, and Dean of *Weſtminſter*: ſo had not Time to write much Himſelf, but kept a *Secretary*.

As the Matters before mention'd to be charg'd againſt my Lord Biſhop, aroſe from Letters ſuppoſed to be written *by* him; I ſhall next conſider the Charge againſt Him, which ariſes from Letters ſuppoſed to be written *to* Him.

There are *Two Letters* mention'd in the Report as written *to* Him; one of *the 11th by Motfield*, interpreted to be Lord *Marr*, wrote to *Illington*; the other of the 25th of *July* from *Digby*, interpreted *Dillon*, to Mrs. *Weſton*.

Now I would obſerve, That it is not pretended, that Either of Thoſe Letters was ever *receiv'd* by the Biſhop; ſo conſequently muſt be *intercepted*: Therefore it would have been proper, to have *produced the Letters*, and to have *proved the Hands*.

As to the Letter from *Motfield*; 'tis only a *Compliment of Condolence*: And 'tis inferr'd that it *muſt be the Biſhop*; becauſe his *Lady died* a little before. The Letter ſays, "We muſt ſubmit with Reſignation, to what "the juſt and great God thinks fit to order; but you know ſuch Things "ſo much better than I do; that I will not trouble you with ſaying any "more upon it." From Theſe laſt Words it is inferr'd, that This Letter was written to a *Clergyman*, and *conſequently* the *Biſhop*.

What Weight This Way of Reaſoning will have with Your Lordſhips in *criminal* Proſecutions, is humbly ſubmitted: But it muſt be obſerv'd, that This Letter is ſaid to be an *Anſwer* to the Letter ſaid to be written the 20th of *April* to *Muſgrave*: And as we have ſhew'd, that it was impoſſible the Biſhop ſhould write or dictate Either of the Letters of the 20th of *April*; the *Anſwer* muſt fall with the Letter. But from hence the Obſervation is natural, and undeniably true; that if *Jones*, who wrote the Letter to *Muſgrave* of the 20th of *April*, could not be the *Biſhop*; and *Illington*, to whom *Motfield* wrote, be the ſame as *Jones*; then neither *Jones* nor *Illington* can denote the Biſhop.

As to the Letter from *Digby* to Mrs. *Weſton*, who is interpreted the Biſhop; It was written the 25th of *July*, N. S. Wherein *Digby* ſays, "I "cannot on any reaſonable Grounds complain of your Silence, becauſe "I am inform'd of the Situation of your Health, and the Concern your "Family are in, by Bankrupts, and Law-Suits."

It muſt be obſerv'd, that on the 7th of *July*, O. S. *G. W.* in his Letter to *Digby* ſays, "I ſaw Mrs. *Weſton* yeſterday; ſhe never was better in "her Life than now." It is ſtrange, that *Digby* the Week following ſhould take Notice of the ill Situation of Mrs. *Weſton*'s Health; 'Tis plain both Theſe Letters can't be genuine, and therefore no Credit can be given to ſuch a Correſpondence.

One

One Way of fixing the intercepted Correſpondence, and the Cant-Names mention'd therein upon the Biſhop, is, by the *Coincidence* of *Times*, and other *Circumſtances*; as of his Lordſhip being *in Town*, and *out of Town*: And there are ſeveral Miſtakes in Them. For in *Hatfield's* Letter to *Muſgrave* of the 7th of *May*, he ſays, Mr. *Jones* is come to Town *only for a Day*: If That be to be underſtood of the Biſhop, it is not true; for He came to Town the 5th of *May*, and did not go out of Town till the 10th.

In the Letter from *I. H.* to *Dixwell*, of the 18th of *June*, 'tis ſaid, "Mr. "*H. Rig*, and *Rep.* are I hear in the Country." And 'tis ſaid by *Rig* is meant the Biſhop: Which cannot be, for the Biſhop was then in Town. So in a Letter to *Maiſonneuve*, of the 19th of *July*, 'tis ſaid, "*Rig* is in "the Country:" Whereas the Biſhop was then in Town. This is the more obſervable; becauſe the *Report*, taking Notice of the Biſhop's being ill of the *Gout*, ſays, *Page* 41. "This Particularity, as alſo ſeveral others, "which will be taken Notice of as to the Biſhop's being in Town, or "in the Country, at the reſpective Times mention'd in the intercepted "Letters, have been carefully enquir'd into." And in the next Paragraph, The *Report*, taking Notice of the Letter to *Muſgrave* of the 7th of *May*, which ſays Mrs. *Jones* is come to Town, ſays, "This agrees with "the Enquiry:" And yet it will plainly appear, that there are ſuch Miſtakes, as to Thoſe times, as I have before mention'd.

I hope I may have Leave to obſerve, that Theſe *Miſtakes eſcaped the Obſervation* of the Honourable Committee of the Houſe of Commons; and that tho' the Letter of the 7th of *May*, in the *Appendix*, ſays, "Mrs. *Jones* "is come to Town only for a day;" Yet in the *Report*, the Words *only for a Day* are left out.

All the Circumſtances before mention'd are made uſe of to fix the Names of *Jones* and *Illington* upon my Lord Biſhop; and therefore the next Paragraph but one in the Report is very obſervable: Which is This.

"Theſe ſeveral Circumſtances, joined to *Neynoe's* Declaration, that "*Kelly* had told him, the Biſhop went ſometimes by the Name of *Jones*, "and that *Carte* had told him, the Biſhop went by the Name of *Illington*, "ſhew, that where-ever *Jones* and *Illington* are named in *Kelly's* Correſ-"pondence, the Biſhop of *Rocheſter* is to be underſtood by Thoſe Names."

So that the whole Proof of the Correſpondence charged to be carry'd on by my Lord Biſhop under the Names of *Jones* and *Illington*, is reſolv'd into This; That *Neynoe* DECLARED that *Kelly* and *Carte* TOLD HIM the Biſhop went by Thoſe Names.

I beſeech Your Lordſhips, Is This *Proof*? Is This Evidence ſufficient to deprive a Reverend Prelate of all his Eccleſiaſtical Preferments? And to ſend him into perpetual Baniſhment? Do the Lives and Liberties of *Engliſhmen* ſtand upon ſo weak a Foundation? If they do; I preſume to ſay they are very *precarious*, and the moſt *innocent* Man alive cannot ſay He is *ſafe*.

I beg your Lordſhip's Indulgence to obſerve farther, that This heavy Charge againſt my Lord Biſhop is ſupported only by *Innuendo's*: And with what an Eye *Innuendo's* have been always look'd upon in *criminal* Caſes, many Inſtances may be given.

I ſhall trouble your Lordſhips but with *One*; which is full to This Purpoſe, and of the greateſt Authority: I mean the Reſolution of your Lordſhips in the Caſe of Sir *Samuel Barnardiſton* in 1683. He was proſecuted for writing Letters, alledged to be Seditious, and highly reflecting on the Government, and the Publick Juſtice of the Nation; and was found guilty, and fined 10,000 *l.* He brought a Writ of Error in This moſt Honourable Houſe, and your Lordſhips were pleas'd to reverſe That Judgment; for that the Information being grounded on *Letters*, which in *themſelves* were

were *not criminal*, but made ſo by *Innuendo's*; your Lordſhips were pleaſed to declare, that *Innuendo's* and *forced Conſtructions* ought not to be allow'd; for all *Accuſations* ſhould be *plain*, and the *Crimes aſcertain'd*.

Now if it can be ſuppos'd, without any *Evidence*, that my Lord Biſhop *wrote* the Letters charged to be written by him; even then this Caſe is the ſame with Sir *Samuel Barnardiſton's*. For the Letters are not *criminal* in *themſelves*; nor can be made ſo but by *Innuendo's*, and *ſtrain'd*, *forc'd Conſtructions*. Nay, I preſume to ſay, there is not *one Part* of the Charge but ſubſiſts *purely* by *Innuendo's*, and *ſtrain'd Conſtructions*.

I will trouble your Lordſhips with inſtancing only *one* Letter; which is That of the 20th of *April* written to Mr *Jackſon*, and ſubſcribed 1378. With the *Innuendo's* it is Thus. 1378, *Innuendo* a Perſon whoſe proper Name begins with an *R*, *Innuendo* the Biſhop of *Rocheſter* did write to Mr. *Jackſon*, *Innuendo* the *Pretender*; that, notwithſtanding *this* Opportunity, *Innuendo* an Opportunity of *raiſing a Rebellion in* England *at the Time of Elections of Members of Parliament*, had elapſed; I, *Innuendo* the *Biſhop*, agree with you, *Innuendo* the *Pretender*, that another, *Innuendo* another *Opportunity of raiſing a Rebellion in* England, may offer before the End of the Year, *Innuendo* at the *Breaking up of the Camp*. Your Lordſhips will pleaſe to obſerve what a *Superfetation* of *Innuendo's* (if I may ſo ſay) there muſt be to ſupport This Charge; and without *Innuendo's* no Part of the Charge againſt the Biſhop can be maintain'd: And therefore, I humbly hope that the ſame Reaſons which induced your Lordſhips to *reverſe the Judgment againſt* Sir *Samuel Barnardiſton*, will prevail upon you to reject *This Bill*.

To what I have objected I imagine it will be anſwered, That your Lordſhips are now acting in your *Legiſlative* Capacity, and that in your Legiſlative Capacity you are not bound by the *Forms of Law*: But I humbly ſubmit it, whether you will not think fit to proceed according to the *Rules* of Law, tho' not according to the *Forms* of it.

Mens *Lives*, and *Properties*, are to be try'd and determined *ſecundum Allegata & Probata*; and the Proof in ſuch Caſes muſt be *Legal* Proof. And I apprehend with great Deference, that when your Lordſhips proceed in your *Legiſlative* Capacity in *other* Inſtances, you proceed according to the *Rules* of Law: As in Bills for enabling Perſons to *ſell*, or *ſettle Eſtates*; Or for *making Rivers navigable*. If the Title or Property of any Perſon come in Queſtion, Your Lordſhips are pleaſed to hold the Parties to *ſtrict legal Proof*: And why not in Bills of *Attainder*? Are Bills of Attainder (whereby Mens *Lives* are forfeited, their *Eſtates* confiſcated, their *Blood* corrupted, and their *Families* undone) of leſs Moment, than Bills to enable Perſons to ſettle their Eſtates for the Benefit of their Families? I humbly apprehend that your *Legiſlative* and *Judicial* Capacities are here ſo *united*, that they *cannot be ſeparated*. For a *Bill* of Attainder is a *Condemnation* by Parliament; and your Lordſhips always *hear* and *judge*, whether a Party be *Guilty*, before you *condemn* him. Will you then be pleaſed to judge and determine, upon *leſs Proof* in *one* Caſe than in *another*? Can it be conceived that your Lordſhips will not act by the *ſame Rule* in *both* your *Capacities*? Or that you will not have an equal *Tenderneſs* and *Regard* for the *Lives*, *Liberties*, and *Eſtates* of the Subject in *One* Capacity, as in the *Other*?

When a Man *flies from Juſtice*, He gives *Judgment againſt himſelf*; and when a Perſon accuſed doth by corrupt or indirect Means *conceal* or *convey away* the *Witneſſes* againſt him; then *he* is the Cauſe, why *ſtrict* and *legal* Proof *cannot be had*: And That may be a Reaſon, why leſs Proof *ſhould be admitted*. But in Caſes not attended with *either* of *Theſe* Circumſtances, to ſay that *leſs* than *Legal* Proof is *Sufficient* for a *Bill of* Attainder, is to affirm that PRIVATE OPINION *alone*, *without Proof*, is

is a *ſufficient Foundation* to paſs a Bill of *Attainder*. And how harſhly *That* would ſound in the Ears of *Engliſhmen*, is humbly ſubmitted to Your Lordſhips.

My Lords, By our Law, a *Judge* cannot go according to his own *private Opinion*; but muſt be govern'd by the *Evidence* given before Him *in Court*. For the Rule is, *Nil refert, quòd notum ſit Judici; ſi non notum ſit in Formâ Judicii*. And if Mens Rights and Liberties were to be determin'd by *private Opinion*; How *precarious* would the *Lives* and *Eſtates* of *Engliſhmen* be? The moſt *innocent* Man could not be ſafe; The wiſeſt Man could not *foreſee*, where it would *end*; and *England* muſt no longer boaſt of the Excellency of her Conſtitution.

It is a Rule, both in Law, and Reaſon, that *Nemo bis puniri debet pro eodem Delicto*: And yet That may happen to be the Biſhop's Caſe. For the *Charge* in the Bill is *general*; intending to *raiſe a Rebellion*, and holding *Treaſonable Correſpondence* in order to bring in Foreign Forces: But there is *no particular Fact* charged upon him. Now if he ſhould be *indicted* for either of thoſe Species of Treaſon; and *particular Overt-Acts* of ſuch Treaſon ſhould be alledg'd, as *buying Arms*, and *liſting Men* for the *Pretender*, and the Overt-Acts ſhould be *proved* by *two Witneſſes*; He might be *condemn'd*, and *executed* for it. For he could not *plead This Bill* in *Bar* to ſuch *Indictment*; becauſe the Indictment would not be for the *ſame Facts*; there being *no particular ones* charged in the Bill. And yet it may happen (as I ſaid) that my Lord Biſhop may be *indicted* and *try'd* for the Treaſon mention'd in This Bill: As in the Caſe of *Hampden* and *Fitzharris*, which I lately mention'd. For Mr. *Hampden* was try'd for meeting and conſulting to raiſe a Rebellion, was fined 40,000 *l.* and was afterwards try'd for High-Treaſon for the ſame Fact: And tho' he inſiſted on his having been try'd for the ſame Fact, and deſired to plead it; yet the Court would not allow it. And in *Fitzharris*'s Caſe, he was indicted for High-Treaſon, and pleaded an Impeachment; and averr'd, it was for the ſame Fact: But the Plea was over-ruled: For there being no particular Article, the Averment could not be ſupported; becauſe he could not averr any thing, that was out of Record.

I humbly hope, Your Lordſhips will excuſe Me for taking up ſo much of your Time. But the *Multifariouſneſs* of the Matters of which the Accuſation conſiſts, and the *Weight* of the Subject drew me into it. I humbly thank Your Lordſhips for your great Indulgence and Patience in hearing me: And if as a *Lawyer*, thro' my Zeal for my Client's Service, or as an *Engliſhman*, aſſerting Thoſe *Laws*, which I apprehend are the *Security of Britiſh Liberties*, I have let drop any Expreſſion, which may be thought improper; I moſt humbly beg Your Lordſhips Pardon. And if there be a Difference between your *Legiſlative* and *Judicial* Capacity: I ſubmit it, whether Your Lordſhips will be pleaſed to give That Judgment in your Legiſlative Capacity, which the Counſel for the Bill do, in my Apprehenſion, admit You could not give in your Judicial. And therefore I hope, Your Lordſhips will be pleaſed to reject This Bill.

AFTER *the Witneſſes for the Biſhop were examin'd, Sir* Conſtantine *proceeded Thus.*

My Lords,

WE have done with our Evidence; and hope we have fully an[swer'd] every Part of the Charge contain'd in the Bill, and apprehend th[ere is] no one Circumſtance left unanſwer'd. Particularly, that we have total[ly] deſtroy'd the Credit of *Neynoe*'s *Hearſay*-Evidence: For when the *Improbabilities*, *Inconſiſtencies*, and *Contradictions*, of His Examinations are conſider'd, and the *Teſtimony* of the *Witneſſes* is duly weighed; No Perſon can give the *leaſt Credit* to what *He* hath ſaid, without offering the greateſt Violence imaginable to his Reaſon.

And it is wonderful, that the Counſel for the Bill ſhould inſiſt he ſhould be credited in *any Thing*: When we have *proved*, he had the Confidence to declare that a *Right Honourable Perſon* had *endeavour'd to perſuade* Him to *accuſe* Perſons of Quality of Things He *knew nothing of*.

Hath he not ſaid that, when he was to be examin'd, *That Right Honourable Perſon* had Him firſt *in private*, and told Him, *what Queſtions* would be *ask'd* Him, and *what Anſwers* He ſhould *give*? Did he not ſay, that the very ſame Gentleman gave Him *five Queſtions*, or *Enquiries*, and told Him *what He ſhould reply* to Each of them? Hath He not ſaid, that refuſing to give Evidence, He was *threatned* with *Newgate*; and that *Thereupon* He gave Them *Informations* againſt *My Lord Biſhop* and *Others*? Nay, had He not the Impudence to ſay, that the *ſame Right Honourable Perſon* offer'd Him 2000*l.* 500*l. per annum*, and a *Place*, to *accuſe* the *proteſting Lords*, the Earl of *Orrery*, and *This Reverend Prelate*? And, that being ask'd whether He *knew any Thing of the Plot*, He ſwore *No*: Nor *Any body* elſe; But that he knew of *two other Plots*, viz. *One* of Mr. *Walpole* againſt the *Proteſting Lords*; the *Other* of *Himſelf* upon Mr. *Walpole*, to get 2000*l.* of Him? Nay, it is *proved* He declared that the *ſame Gentleman* preſs'd Him *ſo hard* to *accuſe ſome Perſons*; that He had it once in his Mind to take up That *Right Honourable Perſon*'s Sword, and *run Him thro'* with it; and ſo make an End of the *Plot*.

Theſe are Things which have been *proved* upon *Neynoe*: And all Theſe Things being conſider'd, I believe the Counſel for the Bill will readily agree with Me, that *no Credit* ought to be given to one Word *He* has ſaid: And if *His* Evidence be laid aſide; the greateſt Part of the *Charge* againſt my Lord Biſhop *falls to the Ground*.

My Lords, The Evidence Mr. *Lewis* gave, was very material. For he ſhew'd Your Lordſhips, that *Brockett*, who was of the Poſt-Office, was ſo skilful in *counterfeiting Hands and Seals*; that he wrote the Superſcription of a Letter, and took the Impreſſion of a Seal, and ſeal'd it again; and did it ſo well, and gave it ſuch a Luſtre, that Mr. *Lewis* could not diſtinguiſh it from the Original.

The *Engravers* likewiſe ſaid, They could take off the Impreſſions of Seals ſo well, that they could not be diſtinguiſh'd: Nay, tho' the Wax were broken, yet if no Part of the Wax were loſt; It might be done.

Your Lordſhips obſerve how the Engravers themſelves were miſtaken in relation to ſome Impreſſions, which were produced to them: And You farther obſerve, that the Seal in Queſtion was a *Cicero*'s Head, which all the Engravers agree to be a very *common* one; and they had many of Them: So that no Objection can be made againſt my Lord on Account of That Seal. Nay, one of the Engravers ſaid, it appear'd to him that the *Seals* of the *two* Letters were not *the ſame*.

As to the *Dog*; there is Mr. *Crawford*'s Certificate, and *Birmingham*'s *Affidavit*.

As to Mrs. *Barnes*'s Evidence; ſhe hath found out now, that there were *Two Dogs*, tho' Nobody elſe ever heard of Two. She ſaid, the Firſt was for the Biſhop of *Rocheſter*. Now it is plain, the *Firſt* was ſent in

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arch; and it was *His Leg that was broken*: And *Birmingham* ſwears, and Mr. *Kelly* ſolemnly affirms, that it was for Mrs. *Barnes*, and not for the *Biſhop*.

As to the *Three Letters* of the 20th of *April*; We have proved it impoſſible that the Biſhop ſhould write, or dictate, Thoſe Letters to Mr. *Kelly*. And Your Lordſhips take Notice, how the *Butler* came to obſerve Thoſe Letters could not be written by the Biſhop; And the Servants, tho' under Confinement, and not permitted to ſee any Body, agree in their Evidence. There is *Gordon*'s Affidavit that he never had ſuch a Pacquet: And *James Talbot* was here in Town the 29th of *April*.

Thus, Your Lordſhips obſerve, that a *Bill* of the moſt *extraordinary Nature* that ever was *ſeen*, hath been ſupported by the moſt *extraordinary Evidence*, that ever was *heard*: And we hope, we have ſet the *dark Paſſages*, of which the *Charge* is compounded, in ſuch a Light; that every One may plainly ſee the Right Reverend Prelate is *not guilty* of *any One Offence* charged againſt Him.

Q

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on 02 July, 2018